



January 31, 2002

HOUSE BILL No. 1001

DIGEST OF HB 1001 (Updated January 29, 2002 9:11 AM - DI 44)

Citations Affected: IC 4-3; IC 4-4; IC 4-6; IC 4-13.5; IC 4-20.5; IC 5-22; IC 5-26; IC 9-24; IC 9-29; IC 10-1; IC 10-4; IC 12-17.4; IC 20-5; IC 22-12; IC 22-13; IC 22-14; IC 31-19; IC 34-24; IC 34-30; IC 35-38; IC 35-41; IC 35-43; IC 35-44; IC 35-45; IC 35-47; noncode.

Synopsis: Antiterrorism measures. Establishes the counterterrorism and security council. Establishes an order of state officers to discharge the powers and duties of the governor if the office of the governor and the office of the lieutenant governor are both vacant. Creates a center for coal technology research to develop technologies to advance the use of Indiana coal. Establishes the construction industry disaster volunteer program. Provides that \$1.25 of the service charge established by administrative rules before January 1, 2002, for certain BMV transactions is to be used in paying the costs of an integrated wireless public safety communications system and authorizes the state office building commission to issue bonds to finance construction of the system. Establishes new restrictions concerning the issuance of commercial driver's licenses and hazardous materials endorsements. Authorizes the state police (instead of the department of administration) to provide security for state property. Authorizes the superintendent of state police to assign a special police employee to serve on a riverboat. Requires the state emergency management agency
(Continued next page)

Effective: Upon passage; July 1, 2002.

**Gregg, Kruzan, Bischoff,
Weinzapfel, Lytle, Herrell, Dvorak,
Lawson L, Reske, Ayres, Friend,
Duncan, Grubb, Murphy, Stilwell**

November 20, 2001, read first time and referred to Committee on Rules and Legislative Procedures.
January 30, 2002, amended, reported — Do Pass.

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to develop a statewide mutual aid program and a statewide mutual aid agreement. Provides that a vehicle, money, or other assets may be seized if used in the commission of certain offenses IC 35-47 as part of an act of terrorism. Establishes various requirements and criminal offenses concerning certain regulated explosives or devices. Establishes or enhances various criminal penalties for disorderly conduct on airport premises, use of the identity of another person with the intent to commit terrorism or to obtain a weapon of mass destruction, money laundering with the intent to further terrorism, possession of a weapon of mass destruction with the intent to carry out terrorism, dissemination of a substance with the intent to cause a person to believe that the substance is a weapon of mass destruction, or interruption or impairment of work conducted in a food processing facility. Repeals: (1) the definition of regulated explosive; (2) the financial responsibility requirements for a regulated explosive manufacturer; (3) the current statute defining the crime of selling, manufacturing, purchasing, or possessing certain bombs and explosives; and (4) a statute that authorizes the commissioner of the department of administration to issue warrants for the recovery of unlawfully possessed state property.

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January 31, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1001

A BILL FOR AN ACT to amend the Indiana Code concerning antiterrorism measures and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-3-20 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]:

4 **Chapter 20. Counterterrorism and Security Council**

5 **Sec. 1. As used in this chapter, "council" refers to the**
6 **counterterrorism and security council established by section 2 of**
7 **this chapter.**

8 **Sec. 2. The counterterrorism and security council is established.**

9 **Sec. 3. (a) The council consists of the following members:**

- 10 (1) The lieutenant governor.
11 (2) The superintendent of the state police department.
12 (3) The adjutant general.
13 (4) The director of the state emergency management agency.
14 (5) The state fire marshal.
15 (6) The state health commissioner.
16 (7) The commissioner of the department of environmental
17 management.

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(8) The assistant commissioner of agriculture.

(9) The chairman of the Indiana utility regulatory commission.

(10) The commissioner of the Indiana department of transportation.

(11) The executive director of the Indiana criminal justice institute.

(12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(13) The speaker of the house of representatives.

(14) The president pro tempore of the senate.

(15) The chief justice of the supreme court.

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

Sec. 4. The lieutenant governor shall serve as the chair of the council and in this capacity, report directly to the governor.

Sec. 5. (a) The council shall do the following:

(1) Develop a strategy to enhance the state's capacity to prevent and respond to terrorism.

(2) Develop a counterterrorism plan in conjunction with relevant state agencies, including a comprehensive needs assessment.

(3) Review each year and update when necessary the plan developed under subdivision (2).

(4) Develop in concert with the law enforcement training academy a counterterrorism curriculum for use in basic police training and for advanced in-service training of veteran law enforcement officers.

(5) Develop an affiliate of the council in each county to coordinate local efforts and serve as the community point of contact for the council and the United States Office of Homeland Security.

(b) The council shall report periodically its findings and recommendations to the governor.

Sec. 6. (a) The governor shall appoint an executive director for the council. The executive director may employ additional staff for the council, subject to the approval of the governor.

(b) The executive director of the council shall serve as:



- (1) the central coordinator for counterterrorism issues; and
- (2) the state's point of contact for:
 - (A) the Office of Domestic Preparedness in the United States Department of Justice; and
 - (B) the United States Office of Homeland Security.

Sec. 7. (a) The expenses of the council shall be paid from appropriations made by the general assembly.

(b) Money received by the council as a grant or a gift is appropriated for the purposes of the grant or the gift.

Sec. 8. (a) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 9. The affirmative votes of a majority of the voting members of the council are required for the council to take action on any measure, including final reports.

Sec. 10. (a) The council may receive confidential law enforcement information from the state police department, the Federal Bureau of Investigation, or other federal, state, or local law enforcement agencies.

(b) For purposes of IC 5-14-1.5 and IC 5-14-3, information received under subsection (a) is confidential.

Sec. 11. All state agencies shall cooperate to the fullest extent possible with the council and the executive director to implement

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1 this chapter.

2 SECTION 2. IC 4-3-21 IS ADDED TO THE INDIANA CODE AS
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2002]:

5 **Chapter 21. Discharge of the Governor's Powers and Duties by**
6 **Individuals Other Than the Governor**

7 **Sec. 1. The purpose of this chapter is to implement Article 5,**
8 **Section 10(e) of the Constitution of the State of Indiana.**

9 **Sec. 2. Except as provided in this chapter, an individual holding**
10 **one (1) of the following offices shall discharge the powers and**
11 **duties of the governor if the office of governor and the office of**
12 **lieutenant governor are both vacant, in the order listed:**

13 (1) The speaker of the house of representatives.

14 (2) The president pro tempore of the senate.

15 (3) The attorney general.

16 (4) The treasurer of state.

17 (5) The auditor of state.

18 (6) The secretary of state.

19 (7) The state superintendent of public instruction.

20 (8) The clerk of the supreme court.

21 **Sec. 3. An individual holding an office or position described in**
22 **section 2 of this chapter may discharge the powers and duties of**
23 **the governor only if all of the following apply:**

24 (1) The individual is a member of the same political party as
25 the individual who most recently held the office of governor.

26 (2) All offices listed in section 2 of this chapter before the
27 office the individual holds are either:

28 (A) vacant; or

29 (B) held by individuals who are not members of the same
30 political party as the individual who most recently held the
31 office of governor.

32 **Sec. 4. An individual's authority to discharge the governor's**
33 **powers and duties under this chapter ends when the general**
34 **assembly fills the office of governor under Article 5, Section 10 of**
35 **the Constitution of the State of Indiana.**

36 SECTION 3. IC 4-4-30 IS ADDED TO THE INDIANA CODE AS
37 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2002]:

39 **Chapter 30. Center for Coal Technology Research**

40 **Sec. 1. As used in this chapter, "center" refers to the center for**
41 **coal technology research established under this chapter.**

42 **Sec. 2. As used in this chapter, "director" refers to the director**



of the department of commerce.

Sec. 3. As used in this chapter, "fund" refers to the coal technology research fund established by section 8 of this chapter.

Sec. 4. As used in this chapter, "Indiana coal" has the meaning set forth in IC 8-1-2-6.1.

Sec. 5. The center for coal technology research is established to perform the following duties:

- (1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.
- (2) Investigate the reuse of clean coal technology byproducts, including fly ash.
- (3) Generate innovative research in the field of coal use.
- (4) Develop new, efficient, and economical sorbents for effective control of emissions.
- (5) Investigate ways to increase coal combustion efficiency.
- (6) Develop materials that withstand higher combustion temperatures.
- (7) Any other matter concerning coal technology research as determined by the center.

Sec. 6. In carrying out its duties under this chapter, the center shall be located at Purdue University at West Lafayette and shall cooperate with and may use the resources of:

- (1) Indiana University Geological Survey and other state educational institutions;
- (2) a state or federal department or agency;
- (3) a political subdivision; and
- (4) interest groups representing business, environment, industry, science, and technology.

Sec. 7. To carry out the center's duties described in section 5 of this chapter, the director or the director's designee, acting on behalf of the center, may:

- (1) organize the center in the manner necessary to implement this chapter;
- (2) execute contractual agreements, including contracts for:
 - (A) the operation of the center;
 - (B) the performance of any of the duties described in section 5 of this chapter; and
 - (C) any other services necessary to carry out this chapter;
- (3) receive money from any source for purposes of this chapter;
- (4) expend money for an activity appropriate to the purposes of this chapter;



(5) execute agreements and cooperate with:

(A) Purdue University and other state educational institutions;

(B) a state or federal department or agency;

(C) a political subdivision; and

(D) interest groups representing business, the environment, industry, science, and technology; and

(6) subject to the approval of the budget agency, employ personnel as necessary for the efficient administration of this chapter.

Sec. 8. (a) The coal technology research fund is established for the purpose of providing money for the center for coal technology research and for the director to carry out the duties specified under this chapter. The budget agency shall administer the fund.

(b) The fund consists of the following:

(1) Money appropriated by the general assembly.

(2) Gifts, grants, and bequests.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the treasurer may invest other public funds.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 4. IC 4-6-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) Whenever any state governmental official, ~~or~~ employee, (whether elected or appointed), **or construction industry professional (as defined in IC 10-4-1-3(6)) participating in the construction industry disaster volunteer program established by IC 10-4-1-30** is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of his duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-8.1-5-2(e), the attorney general shall defend the teacher throughout the action.

(c) A determination by the attorney general under subsection (a) or (b) shall not be admitted as evidence in the trial of any such civil action for damages.



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(d) Nothing in this chapter shall be construed to deprive any such person of his right to select counsel of his own choice at his own expense.

SECTION 5. IC 4-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Whenever any such action, counter-claim, petition, or cross-complaint is filed in any court in this state in which the state of Indiana or any board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or any construction industry professional (as defined in IC 10-4-1-3(6)) participating in the construction industry disaster volunteer program established by IC 10-4-1-30**, is a party and the attorney general is required or authorized to appear or defend, or when the attorney general is entitled to be heard, a copy of the complaint, cross-complaint, petition, bill, or pleading shall be served on the attorney general and such action, cross-action, or proceeding shall not be deemed to be commenced as to the state or ~~any such~~ the board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or as to the construction industry professional**, until such service. Whenever the attorney general has appeared in any suit, action, or proceeding, copies of all motions, demurrers, petitions, and pleadings filed therein shall be served upon the attorney general by the party filing the same; provided, further, that the clerk of the court shall cause to be served upon the attorney general a copy of the ruling made by the court upon such motions, demurrers, petitions, and pleadings, and such ruling shall not be deemed effective in any manner as against the attorney general, ~~or~~ as against the state of Indiana or ~~any the~~ board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or as against the construction industry professional** unless and until such copy shall be served upon the attorney general or any deputy attorney general as provided in section 2 of this chapter; provided, further, that in any action in which the attorney general is required or authorized to appear or defend or entitled to be heard, in which action some matter or thing occurs upon which occurrence time begins to run, the running of such time shall be suspended as to the attorney general until such service is had upon the attorney general or any deputy attorney general as provided in section 2 of this chapter; provided, further, that whenever any claim filed for and on behalf of the state of Indiana or any board, bureau, commission, department, division, agency, officer, or institution of the state of Indiana in any estate or guardianship pending in any court having probate jurisdiction

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in the state of Indiana is not allowed and the clerk of the court, administrator, administratrix, executor, executrix, or guardian transfers such claim to the trial docket, said claim shall not be disposed of nor shall any disposition made of such claim be deemed to be a final adjudication unless and until due notice of the trial date of such claim shall be served on the attorney general or any deputy attorney general as provided in section 2 of this chapter at least ten (10) days prior to the date set for trial of said claim.

SECTION 6. IC 4-13.5-1-1, AS AMENDED BY P.L.291-2001, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this article:

"Commission" refers to the state office building commission.

"Communications system infrastructure" has the meaning set forth in IC 5-26-5-1.

"Construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

"Correctional facility" means a building, a structure, or an improvement for the custody, care, confinement, or treatment of committed persons under IC 11.

"Department" refers to:

(1) the integrated public safety commission, for purposes of a facility consisting of communications system infrastructure; and

(2) the Indiana department of administration, for purposes of all other facilities.

"Mental health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of persons with mental or addictive disorders.

"Facility" means all or any part of one (1) or more buildings, structures, or improvements (whether new or existing), or parking areas (whether surface or an above or below ground parking garage or garages), owned or leased by the commission or the state for the purpose of:

(1) housing the personnel or activities of state agencies or branches of state government;

(2) providing transportation or parking for state employees or persons having business with state government;

(3) providing a correctional facility;

(4) providing a mental health facility; ~~or~~



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(5) providing a regional health facility; **or**

(6) providing communications system infrastructure.

"Person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

"Regional health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs.

"State agency" means an authority, a board, a commission, a committee, a department, a division, or other instrumentality of state government, but does not include a state educational institution (as defined in IC 20-12-0.5-1).

SECTION 7. IC 4-13.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **Subject to section 8 of this chapter**, the commission may not enter into:

(1) a contract for the performance of work, other than a contract of employment with a professional person or a commission employee; or

(2) a contract for the purchase or sale of materials or supplies; without complying with IC 4-13-2 and the rules and procedures of the department.

SECTION 8. IC 4-13.5-1-8, AS AMENDED BY P.L.195-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The commission may employ architects, engineers, space planners, construction managers, and other professional persons it considers necessary to prepare complete plans and specifications necessary for bidding for construction. The commission shall consider economy of operation to the extent practicable in preparing and approving plans and specifications.

(b) The plans and specifications shall be presented for approval to:

(1) the department;

(2) if the facility is designed to house the supreme court or court of appeals, the administrator of the supreme court for approval by the courts; **and**

(3) if the facility is a correctional facility, the department of correction; **and**

(4) if the facility consists of communications system infrastructure, the integrated public safety commission.

(c) After the plans and specifications have been approved by the commission under subsection (b), the commission shall advertise for and receive construction bids and award contracts to the best bidders

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1 in the same manner as required by law for the department. **However,**
 2 **with respect to a facility that consists of communications system**
 3 **infrastructure, if the commission finds that the integrated public**
 4 **safety commission has already advertised for and received**
 5 **construction bids or awarded contracts to the best bidders, or both,**
 6 **substantially in the same manner as required by law for the**
 7 **Indiana department of administration, the commission is not**
 8 **required to repeat the advertisement, receipt of bids, or award of**
 9 **contracts. In making the finding described in this subsection, the**
 10 **commission may rely upon a certificate of the integrated public**
 11 **safety commission. If the commission makes the finding described**
 12 **in this subsection, this is all the authority the commission needs to**
 13 **accept the assignment of the bids or contracts, or both, from the**
 14 **integrated public safety commission, and all the authority the**
 15 **integrated public safety commission needs to assign the bids or**
 16 **contracts, or both, to the commission.**

17 (d) With regard to participation by minority and women's business
 18 enterprises (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3), the
 19 commission shall act in the same manner as required by law for the
 20 department.

21 SECTION 9. IC 4-20.5-6-2 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. **(a) This section**
 23 **does not apply to enforcement matters that are the responsibility**
 24 **of the state police department under IC 10-1-1-29.**

25 **(b) The department shall maintain, equip, and operate the following:**

- 26 (1) The state capitol building.
- 27 (2) The office buildings and other property owned or leased by the
- 28 state for the use of an agency.

29 SECTION 10. IC 4-20.5-6-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. **(a) Except for**
 31 **enforcement matters that are the responsibility of the state police**
 32 **department under IC 10-1-1-29, the commissioner is the custodian**
 33 **of state buildings and grounds.**

34 **(b) The commissioner may appoint security officers for the purpose**
 35 **of maintaining security and preserving the peace in and about the**
 36 **following:**

- 37 ~~(1) The state capitol building.~~
- 38 ~~(2) A state office building.~~
- 39 ~~(3) A state parking facility.~~
- 40 ~~(4) A state motor pool garage.~~
- 41 ~~(5) A state warehouse.~~
- 42 ~~(6) The Indiana state library.~~



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(7) The governor's residence.

(8) Any other building or other property used by the state for any of the following purposes:

(A) Housing the personnel or activities of an agency or a branch of state government.

(B) Providing transportation or parking for state employees or persons having business with state government.

(c) The commissioner and the security officers appointed by the commissioner possess all the common law and statutory powers of law enforcement officers, except for the service of civil process.

(d) For purposes of IC 5-2-1, the commissioner and security officers appointed under this chapter are special officers.

(e) All security officers are subject to preemployment investigation by the state police department.

SECTION 11. IC 4-20.5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. The department ~~shall~~ **may** adopt rules under IC 4-22-2 to govern the protection and custody of state property, **except for enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

SECTION 12. IC 4-20.5-6-8, AS AMENDED BY P.L.172-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) **This section does not apply to enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

(b) The commissioner may regulate:

(1) the traffic and parking of motor vehicles, bicycles, or other vehicles; and

(2) the traffic of pedestrians;

on the streets, roads, paths, and grounds of real property controlled by the state through the department ~~of administration~~ in and around the state capitol, office buildings, parking garages, and adjoining state controlled property.

~~(b)~~ (c) Rules adopted under subsection ~~(a)~~ (b) may include the following:

(1) Provisions governing the registration, speed, weight, operation, parking, times, places, and use of motor vehicles, bicycles, and other vehicles.

(2) Provisions governing the traffic of pedestrians.

(3) Provisions prescribing the assessment and collection of civil penalties for the violation of rules adopted by the commissioner.

Penalties may include the following:

(A) The imposition of reasonable charges.



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(B) The removal and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of rules adopted by the commissioner.

(C) The denial of permission to operate a vehicle on the property in and around the state capitol building, office buildings, parking garages, and adjoining state controlled property.

~~(e)~~ (d) Rules adopted under this section must include provisions for an administrative appeal when a civil penalty is imposed under the rules. A person aggrieved by a final disposition of an appeal by the department may appeal the disposition to a court of jurisdiction. The attorney general may enforce a civil penalty imposed under this section by filing an appropriate action in a court of jurisdiction.

~~(d)~~ (e) This section does not limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys, or ways.

SECTION 13. IC 5-22-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

(b) The counterterrorism and security council established by IC 4-3-20-2 may make a purchase under this section to preserve security or act in an emergency as determined by the governor.

SECTION 14. IC 5-26-2-5, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The commission's powers include the following:

- (1) Planning for voluntary coordination of resources by public safety agencies.
- (2) Developing coordinated, integrated responses to significant public safety events by those public safety agencies that choose to take part.
- (3) Developing means of sharing information operationally and technologically to improve public safety.
- (4) Contracting with consultants to assist in the planning and development under this article.
- (5) Contracting with others to provide services under this article.
- (6) Accepting gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agreeing to and complying with conditions attached thereto as necessary or appropriate to the purposes of the commission.**



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(7) Acquiring real property, or any interest therein, by lease, conveyance (including purchase) instead of foreclosure, or foreclosure as necessary or appropriate to the purposes of the commission.

(8) Owning, managing, operating, holding, clearing, improving, and constructing facilities on real property as necessary or appropriate to the purposes of the commission.

(9) Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering real property, or interests therein or facilities thereon as necessary or appropriate to the purposes of the commission.

(10) Acquiring personal property by lease or conveyance as necessary or appropriate to the purposes of the commission.

(11) Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering personal property, or interests therein as necessary or appropriate to the purposes of the commission.

(12) The powers enumerated in IC 5-26-3-6.

~~(7) (13) Any other power necessary, proper, or convenient to accomplish the goals of the commission: carry out this article.~~

SECTION 15. IC 5-26-3-6, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) In addition to the powers enumerated in IC 5-26-2-5, the commission has the following powers related to the system:

(1) Ensuring that federal and state communications requirements are followed.

(2) Providing system planning, including mutual aid planning and compatibility planning with other public safety agency communications systems.

(3) Creating a standard user agreement.

(4) Providing assistance to local public safety agencies in making equipment purchases.

(5) Assessing charges for using the system.

(6) Entering into and performing use and occupancy agreements concerning the system under IC 4-13.5.

(7) Exercising any power necessary to carry out this chapter.

(b) The Indiana statewide wireless public safety voice and data communications system may use the facilities of commercial mobile radio service providers (as defined in 47 USC 332). If the commission chooses to contract with one or more commercial mobile radio service

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1 providers to provide the system, the commission may delegate the
 2 responsibilities in subsection (a) to the commercial mobile radio
 3 service providers.

4 SECTION 16. IC 5-26-4-1, AS ADDED BY P.L.117-1999,
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2002]: Sec. 1. (a) The integrated public safety
 7 communications fund is established to be used only to carry out the
 8 purposes of this article. The fund shall be administered by the
 9 commission.

10 (b) The fund consists of:

- 11 (1) appropriations from the general assembly;
- 12 (2) gifts;
- 13 (3) federal grants;
- 14 (4) fees and contributions from user agencies that the commission
- 15 considers necessary to maintain and operate the system; and
- 16 (5) money from any other source permitted by law.

17 (c) The treasurer of state shall invest the money in the fund not
 18 currently needed to meet the obligations of the fund in the same
 19 manner as other public funds may be invested. Interest that accrues
 20 from these investments shall be deposited in the fund.

21 (d) Money in the fund at the end of a state fiscal year does not revert
 22 to the state general fund.

23 **(e) The commission shall transfer money from the fund to the**
 24 **communications system infrastructure fund in amounts sufficient**
 25 **to pay rentals and other obligations under use and occupancy**
 26 **agreements or other contracts or leases relating to the financing of**
 27 **the system under IC 4-13.5.**

28 SECTION 17. IC 5-26-4-2 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2002]: Sec. 2. **There is annually appropriated to the commission**
 31 **the money in the fund for its use, subject to the approval of the**
 32 **budget agency, in the acquisition, construction, equipping,**
 33 **operation, maintenance, and financing of the system and state user**
 34 **equipment for the system, including the payment of rentals and**
 35 **other obligations under use and occupancy agreements or other**
 36 **contracts or leases relating to the financing of the system under**
 37 **IC 4-13.5.**

38 SECTION 18. IC 5-26-5 IS ADDED TO THE INDIANA CODE AS
 39 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2002]:

41 **Chapter 5. Communications System Infrastructure Fund**

42 **Sec. 1. As used in this chapter, "communications system**



1 infrastructure" means all or part of the infrastructure of the
2 system described in IC 5-26-3, including:

3 (1) towers and the associated land, improvements,
4 foundations, access roads and rights-of-way, structures,
5 fencing, and equipment necessary, proper, or convenient to
6 enable the tower to function as part of the system;

7 (2) the radio and network equipment necessary, proper, or
8 convenient to transmit and receive voice and data
9 communications; and

10 (3) any other necessary, proper, or convenient elements of the
11 system.

12 Sec. 2. As used in this chapter, "construction" means the
13 erection, renovation, refurbishing, or alteration of all or any part
14 of buildings, improvements, or other structures, including
15 installation of fixtures or equipment, landscaping of grounds, site
16 work, and providing for other ancillary facilities pertinent to the
17 buildings or structures.

18 Sec. 3. As used in this chapter, "infrastructure fund" refers to
19 the communications system infrastructure fund.

20 Sec. 4. The communications system infrastructure fund is
21 established for the purpose of providing communications system
22 infrastructure. The infrastructure fund consists of distributions
23 received under IC 5-26-4-1(e).

24 Sec. 5. The infrastructure fund shall be administered by the
25 commission. The treasurer of state shall invest the money in the
26 infrastructure fund not currently needed to meet the obligations of
27 the infrastructure fund in the same manner as other public funds
28 may be invested.

29 Sec. 6. Money in the infrastructure fund at the end of a state
30 fiscal year does not revert to the state general fund.

31 Sec. 7. The commission may use the money in the infrastructure
32 fund only to pay the following costs:

33 (1) The cost of construction of communications system
34 infrastructure.

35 (2) The cost of acquisition or leasing of all real or personal
36 property required for the construction of communications
37 system infrastructure.

38 (3) The cost of operation and maintenance of communications
39 system infrastructure.

40 (4) The cost of demolishing or removing any buildings,
41 structures, or improvements on property acquired by the
42 commission for the construction of communications system

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infrastructure.

(5) Engineering and legal expenses, other professional services, and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(6) Payment of rentals and other obligations and performance of other obligations under use and occupancy agreements or other contracts or leases relating to the financing of communications system infrastructure under IC 4-13.5.

Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the state office building commission from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.

Sec. 9. There is annually appropriated to the commission the money in the infrastructure fund for its use, subject to the approval of the budget agency, in carrying out the purposes described in section 7 of this chapter.

SECTION 19. IC 9-24-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. ~~2304~~, **31104**, 49 U.S.C. ~~2701~~ **31301** through ~~2716~~, **31306**, 49 U.S.C. **31308** through **31317**, and 49 CFR 383.

(c) Rules adopted under this section must include the following:

(1) Establishment of classes and periods of validation of commercial driver's licenses.

(2) Standards for commercial driver's licenses, including suspension and revocation procedures.

(3) **Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of residence in Indiana.**

(4) Development of written or oral tests, driving tests, and fitness requirements.

~~(4)~~ (5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including the Social Security number and a unique identifier of the holder.

~~(5)~~ (6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.

~~(6)~~ (7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.



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~~(7) The~~ **(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.**

~~(8) (9)~~ Other rules necessary to administer this chapter.

(d) 49 CFR 383 is adopted as Indiana law.

SECTION 20. IC 9-24-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a)** A driver who:

(1) is:

(A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or

(B) found to have violated section 8(7) of this chapter; and

(2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

(1) a felony under Indiana law that results in serious bodily injury or death to another person; or

(2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

(1) felony under Indiana law that results in serious bodily injury or death to another person; or

(2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

SECTION 21. IC 9-29-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. **(a)** Except as provided by subsections (b) and (c), or as otherwise provided by this chapter, the service charges collected under this chapter shall be



deposited in the state license branch fund established under IC 9-29-14.

(b) **One dollar and twenty-five cents (\$1.25) of each service charge increase established by a rule adopted under section 19 of this chapter before January 1, 2002, for services described in sections 4, 6, 7, 8, 9, 10, 11, 12, 14, and 18 of this chapter shall be deposited in the integrated public safety communications fund established by IC 5-26-4-1.**

(c) **One dollar and twenty-five cents (\$1.25) of each service charge established by a rule adopted under section 19 of this chapter before January 1, 2002, for services described in IC 9-29-15-1 shall be deposited in the integrated public safety communications fund established under IC 5-26-4-1.**

SECTION 22. IC 10-1-1-28, AS ADDED BY P.L.69-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 28. (a) As used in this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that:

(1) a motor carrier inspector; **or**

(2) **a special police employee of the department who is not a regular police employee of the department;**

is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of the inspector's **or special police employee's** regular duties.

(b) A special death benefit of one hundred fifty thousand dollars (\$150,000) for a motor carrier inspector **or special police employee** who dies in the line of duty shall be paid in a lump sum from the special death benefit fund established by IC 5-10-10-5 to the following relative of a motor carrier inspector who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

SECTION 23. IC 10-1-1-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. (a) **The department shall maintain security and preserve the peace in and about the following:**

(1) **The state capitol building.**

(2) **A state office building.**

(3) **A state parking facility.**

(4) **A state motor pool garage.**

(5) **A state warehouse.**



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(6) The Indiana state library.

(7) The governor's residence.

(8) Any other building or property used by the state for any of the following purposes:

(A) Housing of personnel or activities of an agency or a branch of state government.

(B) Providing transportation or parking for state employees or persons having business with state government.

(b) A special police employee of the department assigned to the security activities under this section, other than an officer or police employee of the department who possesses police powers under section 10 of this chapter, possesses all of the common law and statutory powers of law enforcement officers, except for the service of civil process.

(c) For purposes of IC 5-2-1, a special police employee assigned to the security activities under this section, other than a regular police employee of the department, is a special officer.

(d) Special police employees shall enforce IC 4-20.5 and rules of the Indiana department of administration.

(e) The superintendent may adopt rules under IC 4-22-2 to do the following:

(1) Enforce IC 4-20.5 and rules of the Indiana department of administration concerning the security of state property.

(2) Carry out the responsibilities for security of state property under this section.

SECTION 24. IC 10-1-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 30. The superintendent may assign a special police employee described in section 29(b) of this chapter to serve as a gaming agent under an agreement with the Indiana gaming commission under IC 4-33-4-3.6.**

SECTION 25. IC 10-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. As used in this chapter:**

(1) "Emergency management" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services,



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communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and coordination of the foregoing functions.

(2) "Political subdivision" has the meaning set forth in IC 36-1-2-13.

(3) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile military or paramilitary action.

(4) "Energy" means coal, petroleum or other liquid fuels, natural or synfuel gas, or electricity.

(5) "Energy emergency" means an existing or projected shortfall of at least eight percent (8%) of motor fuel or of other energy sources which threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized.

(6) "Construction industry professional" means:

(A) an architect;

(B) a professional engineer;

(C) a construction industry contractor;

(D) a construction industry equipment dealer; or

(E) any other person engaged in the construction industry.

(7) "Program" refers to the construction industry disaster volunteer program established by section 30 of this chapter.

(8) "Emergency management worker" includes any:

(A) volunteer other than a person participating in the program; or

(B) full-time or part-time paid or auxiliary employee of:

(i) the state;

(ii) another state, territory, or possession of the United States, or the District of Columbia;

(iii) the federal government;

(iv) any political subdivision of an entity referred to in items (i) through (iii); or

(v) any agency or organization;



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1 **who performs emergency management services at any**
 2 **location in Indiana subject to the order or control of, or under**
 3 **a request of, the state or any political subdivision of the state.**

4 SECTION 26. IC 10-4-1-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The department
 6 shall prepare and maintain a state emergency operations plan and keep
 7 it current, which plan may include:

8 (1) prevention and minimization of injury and damage caused by
 9 disaster;

10 (2) prompt and effective response to disaster;

11 (3) emergency relief;

12 (4) identification of areas particularly vulnerable to disaster;

13 (5) recommendations for:

14 (A) zoning;

15 (B) building;

16 (C) other land use controls;

17 (D) safety measures for securing mobile homes or other
 18 nonpermanent or semipermanent structures; and

19 (E) other preventive and preparedness measures designed to
 20 eliminate or reduce disaster or its impact;

21 shall be disseminated to both the fire prevention and building
 22 safety commission and local authorities;

23 (6) assistance to local officials in designing local emergency
 24 action plans;

25 (7) authorization and procedures for the erection or other
 26 construction of temporary works designed to protect against or
 27 mitigate danger, damage, or loss from flood, conflagration, or
 28 other disaster;

29 (8) preparation and distribution to the appropriate state and local
 30 officials of state catalogs of federal, state, and private assistance
 31 programs;

32 (9) organization of manpower and chains of command;

33 (10) coordination of federal, state, and local disaster activities;

34 (11) coordination of the state disaster plan with the disaster plans
 35 of the federal government; and

36 (12) other necessary matters.

37 (b) The department shall take an integral part in the development
 38 and revision of local and interjurisdictional disaster plans prepared
 39 under section 10 of this chapter. To this end it shall employ or
 40 otherwise secure the services of professional and technical personnel
 41 capable of providing expert assistance to political subdivisions, their
 42 disaster agencies, and interjurisdictional planning and disaster



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1 agencies. These personnel shall consult with subdivisions and agencies
 2 on a regularly scheduled basis, shall make field examinations of the
 3 areas, circumstances, and conditions to which particular local and
 4 interjurisdictional disaster plans are intended to apply, and may suggest
 5 revisions.

6 (c) In preparing and revising the state disaster plan, the department
 7 shall seek the advice and assistance of local government, business,
 8 labor, industry, agriculture, civic and volunteer organizations, and
 9 community leaders. In advising local and interjurisdictional agencies,
 10 the department shall encourage them to seek advice from these sources.

11 (d) The state disaster plan or any part of the plan may be
 12 incorporated in rules of the department or executive orders.

13 (e) The department shall:

14 (1) determine requirements of the state and its political
 15 subdivisions for food, clothing, and other necessities in event of
 16 an emergency;

17 (2) procure and pre-position supplies, medicines, materials, and
 18 equipment;

19 (3) promulgate standards and requirements for local and
 20 interjurisdictional disaster plans;

21 (4) provide for mobile support units;

22 (5) assist political subdivisions, their disaster agencies, and
 23 interjurisdictional disaster agencies to establish and operate
 24 training programs and programs of public information;

25 (6) make surveys of industries, resources, and facilities within the
 26 state, both public and private, as are necessary to carry out the
 27 purposes of this chapter;

28 (7) plan and make arrangements for the availability and use of any
 29 private facilities, services, and property, and if necessary and if in
 30 fact they are used provide for payment for use under terms and
 31 conditions agreed upon;

32 (8) establish a register of persons with types of training and skills
 33 important in emergency prevention, preparedness, response, and
 34 recovery;

35 (9) establish a register of mobile and construction equipment and
 36 temporary housing available for use in a disaster emergency;

37 (10) prepare, for issuance by the governor, executive orders,
 38 proclamations, and regulations as necessary or appropriate in
 39 coping with disaster;

40 (11) cooperate with the federal government and any public or
 41 private agency or entity in achieving any purpose of this chapter
 42 and in implementing programs for disaster prevention,

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1 preparation, response, and recovery; and

2 (12) do other things necessary, incidental, or appropriate for the
3 implementation of this chapter.

4 (f) The department shall ascertain what means exist for rapid and
5 efficient communications in times of disaster emergencies. The
6 department shall consider the desirability of supplementing these
7 communications resources or of integrating them into a comprehensive
8 intrastate or state-federal telecommunications or other communications
9 system or network. In studying the character and feasibility of any
10 system or its several parts, the department shall evaluate the possibility
11 of multipurpose use thereof for general state and local governmental
12 purposes. The department shall make recommendations to the governor
13 as appropriate.

14 (g) The department shall develop a statewide mutual aid program
15 and a statewide mutual aid agreement.

16 SECTION 27. IC 10-4-1-5.5 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2002]: **Sec. 5.5. (a) As used in this section, "agreement" refers to
19 the mutual aid agreement created under section 5(g) of this
20 chapter.**

21 **(b) As used in this section, "party" means a unit or state agency
22 that has entered the agreement.**

23 **(c) As used in this section, "unit" has the meaning set forth in
24 IC 36-1-2-23.**

25 **(d) The agreement must be a contract that provides for the
26 following:**

27 **(1) The procedures for the provision of mutual aid.**

28 **(2) The term of the agreement and the method by which the
29 agreement may be rescinded or terminated by a party before
30 the termination date.**

31 **(3) The terms and conditions governing reimbursement for
32 any assistance provided.**

33 **(4) The terms and conditions governing insurance.**

34 **(5) The terms and conditions governing the assignment of
35 liability. A party to the agreement is not liable for a claim
36 made against or arising out of conduct of any other party to
37 the agreement or the personnel of another party.**

38 **(6) The role of the department.**

39 **(7) Other terms and conditions needed to implement a
40 statewide mutual aid program.**

41 **(e) Whenever an employee of a party is rendering outside aid
42 under the authority of an agreement, the employee has the same**

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1 powers, duties, rights, privileges, and immunities as if the employee
 2 were performing the duties within the employee's normal
 3 jurisdiction.

4 (f) A mutual aid arrangement or agreement entered by a unit
 5 under IC 36-1-7 before July 1, 2002, remains valid after July 1,
 6 2002.

7 SECTION 28. IC 10-4-1-8 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) All functions
 9 under this chapter and all other activities relating to emergency
 10 management are governmental functions.

11 (b) Neither:

12 (1) the state; ~~nor~~

13 (2) any political subdivision of the state; ~~nor~~

14 (3) any other agencies of the state or political subdivision of the
 15 state; ~~nor~~

16 (4) except in cases of willful misconduct, gross negligence, or bad
 17 faith, any:

18 (A) construction industry professional who is participating
 19 in the program;

20 (B) person employing a construction industry professional
 21 who is participating in the program; or

22 (C) emergency management worker;

23 complying with or reasonably attempting to comply with this chapter
 24 or any order or rule adopted under this chapter or under any ordinance
 25 relating to blackout or other precautionary measures enacted by any
 26 political subdivision of the state shall be liable for the death of or injury
 27 to persons or for damage to property as a result of ~~any~~ such ~~an~~ activity.

28 (c) This section shall not affect the right of any person to receive:

29 (1) benefits to which the person would otherwise be entitled
 30 under:

31 (A) this chapter;

32 (B) the worker's compensation law (IC 22-3-2 through
 33 IC 22-3-6); or

34 (C) any pension law; or

35 (2) any benefits or compensation under any federal law.

36 ~~(b)~~ (d) Any requirement for a license to practice any professional,
 37 mechanical, or other skill shall not apply to any authorized emergency
 38 management worker who shall, in the course of performing duties as
 39 such, practice such professional, mechanical, or other skill during a
 40 disaster emergency.

41 (e) As used in this section, "emergency management worker" shall
 42 include any full or part-time paid, volunteer, or auxiliary employee of

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1 this state, or other states, territories, possessions, or the District of
 2 Columbia; or the federal government; or any neighboring country; or
 3 of any political subdivision of those entities; or of any agency or
 4 organization performing emergency management services at any place
 5 in this state subject to the order or control of, or pursuant to a request
 6 of, the state government or any political subdivision of the state.

7 ~~(d)~~ (e) A volunteer working as an authorized emergency
 8 management worker may be covered by the medical treatment and
 9 burial expense provisions of the worker's compensation law (IC 22-3-2
 10 through IC 22-3-6) and the worker's occupational diseases law
 11 (IC 22-3-7). If compensability of the injury is an issue, the
 12 administrative procedures of IC 22-3-2 through IC 22-3-6 and
 13 IC 22-3-7 shall be used to determine the issue.

14 SECTION 29. IC 10-4-1-20 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) **Subsection**
 16 **(c) does not apply to a construction industry professional who is**
 17 **participating in the program.**

18 **(b)** No person shall be employed or associated in any capacity in
 19 any emergency management organization established under this
 20 chapter who:

- 21 (1) advocates a change by force or violence in the constitutional
- 22 form of the government of the United States or the overthrow of
- 23 any government in the United States by force or violence; or
- 24 (2) has been convicted of or is under indictment or information
- 25 charging any subversive act against the United States.

26 ~~(b)~~ (c) Each individual who is appointed to serve in an organization
 27 for emergency management shall, before entering upon the individual's
 28 duties, take an oath, in writing, before a person authorized to
 29 administer oaths in this state, which oath shall be substantially as
 30 follows:

31 "I, _____, do solemnly swear (or
 32 affirm) that I will support and defend the Constitution of the
 33 United States and the Constitution of the State of Indiana against
 34 all enemies, foreign and domestic; that I will bear true faith and
 35 allegiance to the same; that I take this obligation freely, without
 36 any mental reservation or purpose of evasion; and that I will well
 37 and faithfully discharge the duties upon which I am about to enter.
 38 And I do further swear (or affirm) that I do not advocate, nor am
 39 I a member of any political party or organization that advocates,
 40 the overthrow of the government of the United States or of this
 41 state by force or violence; and that during such time as I am a
 42 member of the (name of emergency management organization) I



will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

~~(c)~~ **(d)** For the purposes of this section, the director and the county emergency management directors:

(1) shall be authorized to administer the oath provided in subsection ~~(b)~~ **(c)** to emergency management and disaster personnel; and

(2) may delegate that authority to designated deputies and assistants as may be approved by the director.

SECTION 30. IC 10-4-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) Each person within this state shall conduct himself, keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this chapter are exceeded in a particular case and then only to the extent that the claimant may not have volunteered his services or property without compensation.

(b) No personal services may be compensated by the state or any subdivision or agency of it, except under statute, local law or ordinance.

(c) Compensation for property shall be paid only if the property was commandeered or otherwise used in coping with a disaster emergency and:

(1) its use or destruction was ordered by the governor or a member of the disaster emergency forces of this state; or

(2) the property was volunteered as a part of the construction industry disaster volunteer program.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall make a claim for it, which claim shall be filed and adjudicated as provided in IC ~~1971~~, 32-11.

(e) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

SECTION 31. IC 10-4-1-30 IS ADDED TO THE INDIANA CODE



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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 30. (a) The construction industry disaster volunteer program is established.**

(b) The department shall establish and administer the program.

(c) The program consists of construction industry professionals who have volunteered their:

(1) personal services; or

(2) equipment, manned and unmanned;

or both, to assist the department at the time of a disaster emergency declared under section 7 of this chapter.

(d) A construction industry professional who has volunteered for the program shall provide personal services or equipment, or both, upon terms and conditions specified by the director and agreed to by the construction industry professional.

(e) A construction industry professional participating in the program is entitled to receive reimbursement of expenses actually incurred for:

(1) actual and necessary travel;

(2) subsistence;

(3) maintenance expenses; and

(4) other expenses as approved by the director;

while engaged in duties during a disaster emergency declared under section 7 of this chapter.

(f) Section 8(a) of this chapter applies to a construction industry professional who is participating in the program.

(g) The department shall adopt rules under IC 4-22-2 to implement this section.

SECTION 32. IC 12-17.4-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The division shall deny a license when an applicant fails to meet the requirements for a license. The division shall deny a license to an applicant who has been convicted of any of the following felonies:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.



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- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (~~IC 35-46-1-4(b)~~); **(IC 35-46-1-4(d))**.
- (16) A felony involving a weapon under IC 35-47 **or IC 35-47.5**.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

The division may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

SECTION 33. IC 20-5-2-8, AS AMENDED BY P.L.197-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) This section applies to:

- (1) a school corporation; and
- (2) an entity:
 - (A) with which the school corporation contracts for services; and
 - (B) that has employees who are likely to have direct, ongoing contact with children within the scope of the employees' employment.

(b) A school corporation or entity may use information obtained under section 7 of this chapter concerning an individual's conviction for one (1) of the following offenses as grounds to not employ or contract with the individual:

- (1) Murder (IC 35-42-1-1).

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- 1 (2) Causing suicide (IC 35-42-1-2).
- 2 (3) Assisting suicide (IC 35-42-1-2.5).
- 3 (4) Voluntary manslaughter (IC 35-42-1-3).
- 4 (5) Reckless homicide (IC 35-42-1-5).
- 5 (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from
- 6 the date the individual was discharged from probation,
- 7 imprisonment, or parole, whichever is later.
- 8 (7) Aggravated battery (IC 35-42-2-1.5).
- 9 (8) Kidnapping (IC 35-42-3-2).
- 10 (9) Criminal confinement (IC 35-42-3-3).
- 11 (10) A sex offense under IC 35-42-4.
- 12 (11) Carjacking (IC 35-42-5-2).
- 13 (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from
- 14 the date the individual was discharged from probation,
- 15 imprisonment, or parole, whichever is later.
- 16 (13) Incest (IC 35-46-1-3).
- 17 (14) Neglect of a dependent as a Class B felony
- 18 **(IC 35-46-1-4(b)(2))** unless ten (10) years have elapsed from the
- 19 date the individual was discharged from probation, imprisonment,
- 20 or parole, whichever is later.
- 21 (15) Child selling (~~IC 35-46-1-4(c)~~): **(IC 35-46-1-4(d))**.
- 22 (16) Contributing to the delinquency of a minor (IC 35-46-1-8)
- 23 unless ten (10) years have elapsed from the date the individual
- 24 was discharged from probation, imprisonment, or parole,
- 25 whichever is later.
- 26 (17) An offense involving a weapon under IC 35-47 **or**
- 27 **IC 35-47.5** unless ten (10) years have elapsed from the date the
- 28 individual was discharged from probation, imprisonment, or
- 29 parole, whichever is later.
- 30 (18) An offense relating to controlled substances under
- 31 IC 35-48-4 unless ten (10) years have elapsed from the date the
- 32 individual was discharged from probation, imprisonment, or
- 33 parole, whichever is later.
- 34 (19) An offense relating to material or a performance that is
- 35 harmful to minors or obscene under IC 35-49-3 unless ten (10)
- 36 years have elapsed from the date the individual was discharged
- 37 from probation, imprisonment, or parole, whichever is later.
- 38 (20) An offense relating to operating a motor vehicle while
- 39 intoxicated under IC 9-30-5 unless five (5) years have elapsed
- 40 from the date the individual was discharged from probation,
- 41 imprisonment, or parole, whichever is later.
- 42 (21) An offense that is substantially equivalent to any of the

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offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

(c) An individual employed by a school corporation or an entity described in subsection (a) shall notify the governing body of the school corporation if during the course of the individual's employment the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

SECTION 34. IC 22-12-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The commission may adopt rules under IC 4-22-2 setting a fee schedule for the following:

(1) Fireworks display permits issued under IC 22-11-14-2.

(2) Explosives magazine permits issued under ~~IC 22-14-4-~~
IC 35-47.5-4.

(3) Design releases issued under IC 22-15-3.

(4) Certification of industrialized building systems and mobile structures under IC 22-15-4.

(5) Inspection of regulated amusement devices under IC 22-15-7.

(6) Application fees for variance requests under IC 22-13-2-11 and inspection fees for exemptions under IC 22-13-4-5.

(b) Fee schedules set under this section must be sufficient to pay all of the costs, direct and indirect, that are payable from the fund into which the fee must be deposited, after deducting other money deposited in the fund. In setting these fee schedules, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

(c) The fee schedule set for design releases issued under subsection (a)(3) may not be changed more than one (1) time each year. The commission may include in this fee schedule a fee for the review of plans and specifications and, if a political subdivision does not have a program to periodically inspect the construction covered by the design release, a fee for inspecting the construction.

(d) The fee schedule set under subsection (a) for design releases may provide that a portion of the fees collected shall be deposited in the statewide fire and building safety education fund established under section 3 of this chapter.

SECTION 35. IC 22-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The commission shall adopt fire safety rules that prohibit the following:

(1) The storage of regulated explosives (**as defined in IC 35-47.5-2-13**) in quantities exceeding the maximum quantity specified by the commission.

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(2) The storage of regulated explosives (**as defined in IC 35-47.5-2-13**) at a site that is located less than the minimum distance specified by the commission from a railroad, highway, or other place of habitation or assembly.

(3) The use of a receptacle, burning fixture or equipment, heating fixture or equipment, or structure for an explosive, flammable, or other combustible matter that does not meet the design and composition standards specified by the commission.

(4) The keeping, storage, use, manufacture, sale, handling, transportation, or disposition of an explosive, flammable, or other combustible matter in violation of any other requirements specified by the commission.

SECTION 36. IC 22-13-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) This section applies to the following laboratories:

(1) Analytical laboratories approved by the office of the state fire marshal under the alternative criteria established by the commission in its rules.

(2) Laboratories that are:

(A) operated by a college, university, school, or other educational entity for the purpose of instruction or research; and

(B) approved by the office of the state fire marshal under the alternative criteria established by the commission in the rules.

(b) The commission may:

(1) apply different rules to the manufacture of regulated explosives (**as defined in IC 35-47.5-2-13**) in a laboratory described in subsection (a) than apply to other places where regulated explosives (**as defined in IC 35-47.5-2-13**) are manufactured; and

(2) adopt rules under IC 4-22-2 to exempt laboratories described in subsection (a) from the regulated explosive magazines permit requirement under ~~IC 22-14-4~~ **IC 35-47.5-4**.

SECTION 37. IC 31-19-11-1, AS AMENDED BY P.L.200-1999, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under



IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given; and

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c);

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Aggravated battery (IC 35-42-2-1.5).

(8) Kidnapping (IC 35-42-3-2).

(9) Criminal confinement (IC 35-42-3-3).

(10) A felony sex offense under IC 35-42-4.

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).



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(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(15) Child selling (~~IC 35-46-1-4(b)~~): **(IC 35-46-1-4(d))**.

(16) A felony involving a weapon under IC 35-47 **or IC 35-47.5**.

(17) A felony relating to controlled substances under IC 35-48-4.

(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

SECTION 38. IC 34-24-1-1, AS AMENDED BY P.L.17-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(v) Dealing in a counterfeit substance (IC 35-48-4-5).

(vi) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).

(vii) Dealing in paraphernalia (IC 35-48-4-8.5).

(viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

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(C) Any hazardous waste in violation of IC 13-30-6-6.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property **used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism** or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), **or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.**

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).

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(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 39. IC 34-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) At the hearing, the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under section 1 of this chapter. If the property seized was a vehicle, the

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1 prosecuting attorney must also show by a preponderance of the
 2 evidence that a person who has an ownership interest of record in the
 3 bureau of motor vehicles knew or had reason to know that the vehicle
 4 was being used in the commission of the offense.

5 (b) If the prosecuting attorney fails to meet the burden of proof, the
 6 court shall order the property released to the owner.

7 (c) If the court enters judgment in favor of the state, or the state and
 8 a unit (if appropriate), the court, subject to section 5 of this chapter,
 9 shall order delivery to the law enforcement agency that seized the
 10 property. The court's order may permit the agency to use the property
 11 for a period not to exceed three (3) years. However, the order must
 12 require that, after the period specified by the court, the law
 13 enforcement agency shall deliver the property to the county sheriff for
 14 public sale.

15 (d) If the court enters judgment in favor of the state, or the state and
 16 a unit (if appropriate), the court shall, subject to section 5 of this
 17 chapter:

18 (1) determine the amount of law enforcement costs; and

19 (2) order that:

20 (A) the property, if it is not money or real property, be sold
 21 under section 6 of this chapter, by the sheriff of the county in
 22 which the property was seized, and if the property is a vehicle,
 23 this sale must occur after any period of use specified in
 24 subsection (c);

25 (B) the property, if it is real property, be sold in the same
 26 manner as real property is sold on execution under IC 34-55-6;

27 (C) the proceeds of the sale or the money be:

28 (i) deposited in the general fund of the state, or the unit that
 29 employed the law enforcement officers that seized the
 30 property; or

31 **(ii) deposited in the general fund of a unit if the property**
 32 **was seized by a local law enforcement agency of the unit**
 33 **for an offense, an attempted offense, or a conspiracy to**
 34 **commit an offense under IC 35-47 as part of or in**
 35 **furtherance of an act of terrorism; and**

36 (D) any excess in value of the proceeds or the money over the
 37 law enforcement costs be forfeited and transferred to the
 38 treasurer of state for deposit in the common school fund.

39 (e) If property that is seized under this chapter (or IC 34-4-30.1-4
 40 before its repeal) is transferred:

41 (1) after its seizure, but before an action is filed under section 3
 42 of this chapter (or IC 34-4-30.1-3 before its repeal); or



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(2) when an action filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal) is pending; the person to whom the property is transferred must establish an ownership interest of record as a bona fide purchaser for value. A person is a bona fide purchaser for value under this section if the person, at the time of the transfer, did not have reasonable cause to believe that the property was subject to forfeiture under this chapter.

(f) If the property seized was an unlawful telecommunications device (as defined in IC 35-45-13-6) or plans, instructions, or publications used to commit an offense under IC 35-45-13, the court may order the sheriff of the county in which the person was convicted of an offense under IC 35-45-13 to destroy as contraband or to otherwise lawfully dispose of the property.

SECTION 40. IC 34-30-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. IC 10-4-1-8 (Concerning the state, political subdivisions, ~~and~~ emergency management workers, **and construction industry professionals** for injury, death, or property damage).

SECTION 41. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

- (1) convicted of an offense or attempted offense, except for an offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, ~~or~~ IC 35-47-5-1 (**repealed**), **or IC 35-47.5-5**;
- (2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, ~~or~~ IC 35-47-5-1 (**repealed**), **or IC 35-47.5-5**; or
- (3) a security risk as determined under section 10 of this chapter.

SECTION 42. IC 35-41-1-8, AS AMENDED BY P.L.156-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. "Deadly weapon" means the following:

- (1) A loaded or unloaded firearm.
- (2) A **destructive device**, weapon, device, taser (as defined in IC 35-47-8-3) or electronic stun weapon (as defined in IC 35-47-8-1), equipment, chemical substance, or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.
- (3) An animal (as defined in IC 35-46-3-3) that is:



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(A) readily capable of causing serious bodily injury; and
 (B) used in the commission or attempted commission of a
 crime.

(4) A biological disease, virus, or organism that is capable of
 causing serious bodily injury.

SECTION 43. IC 35-41-1-8.5 IS ADDED TO THE INDIANA
 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2002]: **Sec. 8.5. "Destructive device" has the
 meaning set forth in IC 35-47.5-2-4.**

SECTION 44. IC 35-41-1-10.7 IS ADDED TO THE INDIANA
 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2002]: **Sec. 10.7. "Food processing facility"
 means a facility used to prepare or process animal, plant, or other
 food ingredients into food products intended for sale or
 distribution to the general public for human consumption.**

SECTION 45. IC 35-43-1-1, AS AMENDED BY P.L.88-1999,
 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2002]: Sec. 1. (a) A person who, by means of fire, ~~or~~
 explosive, **or destructive device**, knowingly or intentionally damages:

- (1) a dwelling of another person without the other person's
 consent;
- (2) property of any person under circumstances that endanger
 human life;
- (3) property of another person without the other person's consent
 if the pecuniary loss is at least five thousand dollars (\$5,000); or
- (4) a structure used for religious worship without the consent of
 the owner of the structure;

commits arson, a Class B felony. However, the offense is a Class A
 felony if it results in either bodily injury or serious bodily injury to any
 person other than a defendant.

(b) A person who commits arson for hire commits a Class B felony.
 However, the offense is a Class A felony if it results in bodily injury to
 any other person.

(c) A person who, by means of fire, ~~or~~ explosive, **or destructive
 device**, knowingly or intentionally damages property of any person
 with intent to defraud commits arson, a Class C felony.

(d) A person who, by means of fire, ~~or~~ explosive, **or destructive
 device**, knowingly or intentionally damages property of another person
 without the other person's consent so that the resulting pecuniary loss
 is at least two hundred fifty dollars (\$250) but less than five thousand
 dollars (\$5,000) commits arson, a Class D felony.

SECTION 46. IC 35-43-1-2, AS AMENDED BY P.L.100-1999,



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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2002]: Sec. 2. (a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

- (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
- (ii) the property damaged was a moving motor vehicle;
- (iii) the property damaged was a car or equipment of a railroad company being operated on a railroad right-of-way; or
- (iv) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

- (i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);
- (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
- (iii) the damage is to a public record;
- (iv) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; ~~or~~
- (v) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); **or**

(vi) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:
 - (A) adjacent to; and
 - (B) owned or rented in common with;
 a structure or facility identified in subdivision (1) or (2); or
- (4) personal property contained in a structure or located at a



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1 facility identified in subdivision (1) or (2);
 2 without the consent of the owner, possessor, or occupant of the
 3 property that is damaged, commits institutional criminal mischief, a
 4 Class A misdemeanor. However, the offense is a Class D felony if the
 5 pecuniary loss is at least two hundred fifty dollars (\$250) but less than
 6 two thousand five hundred dollars (\$2,500), and a Class C felony if the
 7 pecuniary loss is at least two thousand five hundred dollars (\$2,500).

8 (c) If a person is convicted of an offense under this section that
 9 involves the use of graffiti, the court may, in addition to any other
 10 penalty, order that the person's operator's license be suspended or
 11 invalidated by the bureau of motor vehicles for not more than one (1)
 12 year.

13 (d) The court may rescind an order for suspension or invalidation
 14 under subsection (c) and allow the person to receive a license or permit
 15 before the period of suspension or invalidation ends if the court
 16 determines that:

- 17 (1) the person has removed or painted over the graffiti or has
- 18 made other suitable restitution; and
- 19 (2) the person who owns the property damaged or defaced by the
- 20 criminal mischief or institutional criminal mischief is satisfied
- 21 with the removal, painting, or other restitution performed by the
- 22 person.

23 SECTION 47. IC 35-43-2-2, AS AMENDED BY P.L.259-1999,
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2002]: Sec. 2. (a) A person who:

- 26 (1) not having a contractual interest in the property, knowingly or
- 27 intentionally enters the real property of another person after
- 28 having been denied entry by the other person or that person's
- 29 agent;
- 30 (2) not having a contractual interest in the property, knowingly or
- 31 intentionally refuses to leave the real property of another person
- 32 after having been asked to leave by the other person or that
- 33 person's agent;
- 34 (3) accompanies another person in a vehicle, with knowledge that
- 35 the other person knowingly or intentionally is exerting
- 36 unauthorized control over the vehicle;
- 37 (4) knowingly or intentionally interferes with the possession or
- 38 use of the property of another person without the person's consent;
- 39 (5) not having a contractual interest in the property, knowingly or
- 40 intentionally enters the dwelling of another person without the
- 41 person's consent; or
- 42 (6) knowingly or intentionally:



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- 1 (A) travels by train without lawful authority or the railroad
 2 carrier's consent; and
 3 (B) rides on the outside of a train or inside a passenger car,
 4 locomotive, or freight car, including a boxcar, flatbed, or
 5 container without lawful authority or the railroad carrier's
 6 consent;
 7 commits criminal trespass, a Class A misdemeanor. However, the
 8 offense is a Class D felony if it is committed on a scientific research
 9 facility, **on a food processing facility**, on school property, or on a
 10 school bus or the person has a prior unrelated conviction for an offense
 11 under this section concerning the same property.
 12 (b) A person has been denied entry under subdivision (a)(1) of this
 13 section when the person has been denied entry by means of:
 14 (1) personal communication, oral or written; or
 15 (2) posting or exhibiting a notice at the main entrance in a manner
 16 that is either prescribed by law or likely to come to the attention
 17 of the public.
 18 (c) Subsections (a) and (b) do not apply to the following:
 19 (1) A passenger on a train.
 20 (2) An employee of a railroad carrier while engaged in the
 21 performance of official duties.
 22 (3) A law enforcement officer, firefighter, or emergency response
 23 personnel while engaged in the performance of official duties.
 24 (4) A person going on railroad property in an emergency to rescue
 25 a person or animal from harm's way or to remove an object that
 26 the person reasonably believes poses an imminent threat to life or
 27 limb.
 28 (5) A person on the station grounds or in the depot of a railroad
 29 carrier:
 30 (A) as a passenger; or
 31 (B) for the purpose of transacting lawful business.
 32 (6) A:
 33 (A) person; or
 34 (B) person's:
 35 (i) family member;
 36 (ii) invitee;
 37 (iii) employee;
 38 (iv) agent; or
 39 (v) independent contractor;
 40 going on a railroad's right-of-way for the purpose of crossing at a
 41 private crossing site approved by the railroad carrier to obtain
 42 access to land that the person owns, leases, or operates.

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(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

SECTION 48. IC 35-43-5-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.6. A person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person with intent to:**

(1) commit terrorism; or

(2) obtain or transport a weapon of mass destruction; commits terroristic deception, a Class C felony.

SECTION 49. IC 35-44-2-2, AS AMENDED BY P.L.156-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, **a destructive device**, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(c) A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false; or

(4) gives a false report concerning a missing child (as defined in IC 10-1-7-2) or gives false information in the official investigation of a missing child knowing the report or information

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to be false;
 commits false informing, a Class B misdemeanor. However, the offense
 is a Class A misdemeanor if it substantially hinders any law
 enforcement process or if it results in harm to an innocent person.

SECTION 50. IC 35-45-1-3 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A person who
 recklessly, knowingly, or intentionally:

- (1) engages in fighting or in tumultuous conduct;
- (2) makes unreasonable noise and continues to do so after being
 asked to stop; or
- (3) disrupts a lawful assembly of persons;

commits disorderly conduct, a Class B misdemeanor. **However, the
 offense is a Class D felony if it adversely affects airport security
 and is committed in an airport (as defined in IC 8-21-1-1) or on the
 premises of an airport, including in a parking area, a maintenance
 bay, or an aircraft hangar.**

SECTION 51. IC 35-45-6-1, AS AMENDED BY P.L.17-2001,
 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2002]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph,
 recording, or other tangible item containing compiled data from which
 information can be either obtained or translated into a usable form.

"Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company,
 partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or
 merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2)
 incidents of racketeering activity that have the same or similar intent,
 result, accomplice, victim, or method of commission, or that are
 otherwise interrelated by distinguishing characteristics that are not
 isolated incidents. However, the incidents are a pattern of racketeering
 activity only if at least one (1) of the incidents occurred after August
 31, 1980, and if the last of the incidents occurred within five (5) years
 after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to
 conspire to commit a violation of, or aiding and abetting in a violation
 of any of the following:

- (1) A provision of IC 23-2-1, or of a rule or order issued under
 IC 23-2-1.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.



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- 1 (4) A violation of IC 35-49-3.
- 2 (5) Murder (IC 35-42-1-1).
- 3 (6) Battery as a Class C felony (IC 35-42-2-1).
- 4 (7) Kidnapping (IC 35-42-3-2).
- 5 (8) Child exploitation (IC 35-42-4-4).
- 6 (9) Robbery (IC 35-42-5-1).
- 7 (10) Carjacking (IC 35-42-5-2).
- 8 (11) Arson (IC 35-43-1-1).
- 9 (12) Burglary (IC 35-43-2-1).
- 10 (13) Theft (IC 35-43-4-2).
- 11 (14) Receiving stolen property (IC 35-43-4-2).
- 12 (15) Forgery (IC 35-43-5-2).
- 13 (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- 14 (17) Bribery (IC 35-44-1-1).
- 15 (18) Official misconduct (IC 35-44-1-2).
- 16 (19) Conflict of interest (IC 35-44-1-3).
- 17 (20) Perjury (IC 35-44-2-1).
- 18 (21) Obstruction of justice (IC 35-44-3-4).
- 19 (22) Intimidation (IC 35-45-2-1).
- 20 (23) Promoting prostitution (IC 35-45-4-4).
- 21 (24) Promoting professional gambling (IC 35-45-5-4).
- 22 (25) Dealing in or manufacturing cocaine, a narcotic drug, or
- 23 methamphetamine (IC 35-48-4-1).
- 24 (26) Dealing in a schedule I, II, or III controlled substance
- 25 (IC 35-48-4-2).
- 26 (27) Dealing in a schedule IV controlled substance
- 27 (IC 35-48-4-3).
- 28 (28) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 29 (29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 30 (30) Money laundering (IC 35-45-15-5).

31 **(31) A violation of IC 35-47.5-5.**

32 SECTION 52. IC 35-45-15-5 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) A person that
 34 knowingly or intentionally:

- 35 (1) acquires or maintains an interest in, receives, conceals,
- 36 possesses, transfers, or transports the proceeds of criminal
- 37 activity;
- 38 (2) conducts, supervises, or facilitates a transaction involving the
- 39 proceeds of criminal activity; or
- 40 (3) invests, expends, receives, or offers to invest, expend, or
- 41 receive, the proceeds of criminal activity or funds that are the
- 42 proceeds of criminal activity, and the person knows that the



proceeds or funds are the result of criminal activity;
 commits money laundering, a Class D felony. However, the offense is:

(A) a Class C felony if the value of the proceeds or funds is at least fifty thousand dollars (\$50,000);

(B) a Class C felony if a person commits the crime with the intent to:

(i) commit or promote an act of terrorism; or

(ii) obtain or transport a weapon of mass destruction; and

(C) a Class B felony if the value of the proceeds or funds is at least fifty thousand dollars (\$50,000) and a person commits the crime with the intent to:

(i) commit or promote an act of terrorism; or

(ii) obtain or transport a weapon of mass destruction.

(b) It is a defense to prosecution under this section that the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose under Indiana or United States law.

(c) It is a defense to prosecution under this section that:

(1) the transaction was necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment of the United States Constitution or Article 1, Section 13, of the Constitution of the State of Indiana; or

(2) the funds were received as bona fide legal fees by a licensed attorney and, at the time of the receipt of the funds, the attorney did not have actual knowledge that the funds were derived from criminal activity.

SECTION 53. IC 35-47-5-8, AS AMENDED BY P.L.104-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. A person who owns or possesses

~~(1) a machine gun or~~

~~(2) a bomb;~~

commits a Class C felony.

SECTION 54. IC 35-47-5-9, AS AMENDED BY P.L.104-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. A person who

~~(1) operates a loaded machine gun or~~

~~(2) hurls, drops, places, or detonates a bomb;~~

commits a Class B felony.

SECTION 55. IC 35-47-5-10, AS AMENDED BY P.L.104-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The provisions of sections 8 or 9 of this



chapter shall not be construed to apply to any of the following:

- (1) Members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.
- (2) Machine guns ~~or bombs~~ kept for display as relics and which are rendered harmless and not usable.
- (3) Any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.
- (4) Persons lawfully engaged in the display, testing, or use of fireworks.
- (5) Agencies of state government.
- (6) Persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, ~~bombs~~, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while acting within the scope of such business.
- (7) Persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.
- (8) Persons lawfully engaged in the manufacture, transportation, distribution, use or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

SECTION 56. IC 35-47-7-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. The:**

- (1) physician who treats a person; or
- (2) administrator or the administrator's designee of the hospital or outpatient surgical center where a person was treated;

who knows or should know that the physician or hospital is treating a person for an injury that was inflicted while the person was making or using a destructive device shall report the case to a local law enforcement agency not more than seventy-two (72) hours after the person is treated. The report may be made orally or in writing.

SECTION 57. IC 35-47-12-1, AS ADDED BY P.L.156-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 1. A person who knowingly or intentionally:**

- (1) possesses;
- (2) manufactures;
- ~~(2)~~ (3) places;



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1 ~~(3)~~ **(4)** disseminates; or
 2 ~~(4)~~ **(5)** detonates;
 3 a weapon of mass destruction with the intent to carry out terrorism
 4 commits a Class B felony. However, the offense is a Class A felony if
 5 the conduct results in serious bodily injury or death of any person.

6 SECTION 58. IC 35-47-12-2, AS ADDED BY P.L.156-2001,
 7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2002]: Sec. 2. A person who knowingly or intentionally:

9 **(1) possesses;**
 10 **(2) manufactures;**
 11 ~~(2)~~ **(3) places;**
 12 ~~(3)~~ **(4) disseminates; or**
 13 ~~(4)~~ **(5) detonates;**
 14 a weapon of mass destruction with the intent to damage, destroy,
 15 sicken, or kill crops or livestock of another person without the consent
 16 of the other person commits agricultural terrorism, a Class C felony.

17 SECTION 59. IC 35-47-12-3 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2002]: **Sec. 3. A person who knowingly or**
 20 **intentionally places or disseminates a device or substance with the**
 21 **intent to cause a reasonable person to believe that the device or**
 22 **substance is a weapon of mass destruction (as defined in**
 23 **IC 35-41-1-29.4), commits terroristic mischief, a Class C felony.**
 24 **However, the offense is a Class B felony if, as a result of the**
 25 **terroristic mischief:**

26 **(1) a physician prescribes diagnostic testing or medical**
 27 **treatment for any person other than the person who**
 28 **committed the terroristic mischief; or**
 29 **(2) a person suffers serious bodily injury.**

30 SECTION 60. IC 35-47.5 IS ADDED TO THE INDIANA CODE
 31 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2002]:

33 **ARTICLE 47.5. CONTROLLED EXPLOSIVES**

34 **Chapter 1. Applicability**

35 **Sec. 1. This article does not apply to the following:**

36 **(1) Fertilizers, propellant actuated devices, or propellant**
 37 **activated industrial tools:**
 38 **(A) manufactured;**
 39 **(B) imported;**
 40 **(C) distributed; or**
 41 **(D) used;**
 42 **for their designed purposes.**



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(2) A pesticide that is:

- (A) manufactured;**
- (B) stored;**
- (C) transported;**
- (D) distributed;**
- (E) possessed; or**
- (F) used;**

for its designed purposes or in accordance with Chapter 7 of Title 2, the federal Insecticide, Fungicide, and Rodenticide Act, 61 Stat. 163, as amended, and the federal Environmental Pesticide Control Act of 1972, P.L.92-516, as amended.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Booby trap" means a device meant to cause death or bodily injury by:

- (1) hiding the device; or**
- (2) activating the device by trip wires, switches, antidisturbance, or other remote means.**

Sec. 3. "Commission" refers to the fire prevention and building safety commission established by IC 22-12-2-1.

Sec. 4. (a) "Destructive device" means:

(1) an explosive, incendiary, or overpressure device that is configured as a:

- (A) bomb;**
- (B) grenade;**
- (C) rocket with a propellant charge of more than four (4) ounces;**
- (D) missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce;**
- (E) mine;**
- (F) Molotov cocktail; or**
- (G) device that is substantially similar to an item described in clauses (A) through (F);**

(2) a type of weapon that may be readily converted to expel a projectile by the action of an explosive or other propellant through a barrel that has a bore diameter of more than one-half (1/2) inch; or

(3) a combination of parts designed or intended for use in the conversion of a device into a destructive device.

(b) The term does not include the following:

- (1) A pistol, rifle, shotgun, or weapon suitable for sporting or**

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personal safety purposes or ammunition.

(2) A device that is neither designed nor redesigned for use as a weapon.

(3) A device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

(4) A surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense.

Sec. 5. "Detonator" means a device containing a detonating charge that is used to initiate detonation in an explosive, including the following:

(1) Electric blasting caps.

(2) Blasting caps for use with safety fuses.

(3) Detonating cord delay connectors.

(4) Blasting caps for use with a shock tube.

(5) Improvised devices designed to function as a detonator.

Sec. 6. "Distribute" means the actual, constructive, or attempted transfer from one (1) person to another.

Sec. 7. "Explosives" means a chemical compound or other substance or mechanical system intended to produce an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion capable of causing injury to persons or damage to property, including the substances designated in IC 35-47.5-3. The term does not include the following:

(1) A model rocket and model rocket engine designed, sold, and used to propel recoverable aero models.

(2) A paper cap in which the explosive content does not average more than twenty-five hundredths (0.25) grains of explosive mixture per paper cap for toy pistols, toy cannons, toy canes, toy guns, or other devices using paper caps unless the paper cap is used as a component of a destructive device.

Sec. 8. "Hoax device" or "replica" means a device or article that has the appearance of a destructive device or detonator.

Sec. 9. "Incendiary" means a flammable liquid or compound with a flash point not greater than one hundred fifty (150) degrees Fahrenheit, as determined by a Tagliabue or an equivalent closed cup device, including gasoline, kerosene, fuel oil, or a derivative of these substances.



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1 **Sec. 10. "Office" refers to the office of the state fire marshal.**

2 **Sec. 11. "Overpressure device" means:**

3 (1) a frangible container filled with an explosive gas or
4 expanding gas that is designed or constructed to cause the
5 container to break or fracture in a manner that is capable of
6 causing death, bodily harm, or property damage; or

7 (2) a container filled with an explosive gas or expanding gas
8 or chemicals that generate an expanding gas.

9 **Sec. 12. "Property" means real or personal property of any**
10 **kind, including money, choses in action, and other similar interests**
11 **in property.**

12 **Sec. 13. (a) "Regulated explosive" includes:**

13 (1) a destructive device; and

14 (2) an explosive.

15 **(b) The term does not include the following:**

16 (1) An explosive in a manufactured article that is designed
17 and packaged in a manner that is likely to prevent an
18 explosion resulting in property damage or personal injury. A
19 manufactured article to which this subdivision applies
20 includes fixed ammunition for small arms, a firework, and a
21 safety fuse match.

22 (2) Gasoline, kerosene, naphtha, turpentine, or benzine.

23 (3) An explosive that is being transported on or in a vessel,
24 railroad car, or highway vehicle in conformity with the
25 regulations adopted by the United States Department of
26 Transportation.

27 (4) A blasting explosive that is transported or used for
28 agricultural purposes and that is in a quantity that does not
29 exceed two hundred (200) pounds.

30 (5) Ammonium nitrate compounds kept for mining purposes
31 at coal mines regulated under IC 14-34.

32 **Chapter 3. Classification of Regulated Explosives**

33 **Sec. 1. The following materials are regulated explosives within**
34 **the meaning of this article:**

35 (1) Acetylides of heavy metals.

36 (2) Aluminum containing polymeric propellant.

37 (3) Aluminum ophorite explosive.

38 (4) Amatex.

39 (5) Amatol.

40 (6) Ammonal.

41 (7) Ammonium nitrate explosive mixtures, cap sensitive.

42 (8) Ammonium nitrate explosive mixtures, noncap sensitive.



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- 1 (9) Aromatic nitro-compound explosive mixtures.
- 2 (10) Ammonium perchlorate explosive mixtures.
- 3 (11) Ammonium perchlorate composite propellant.
- 4 (12) Ammonium picrate (picrate of ammonia, explosive D).
- 5 (13) Ammonium salt lattice with isomorphously substituted
- 6 inorganic salts.
- 7 (14) Ammonium tri-iodide.
- 8 (15) ANFO (ammonium nitrate-fuel oil).
- 9 (16) Baratol.
- 10 (17) Baronol.
- 11 (18) BEAF (1,2-bis (2,2-difluoro-2-nitroacetoxyethane)).
- 12 (19) Black powder.
- 13 (20) Black powder based explosive mixtures.
- 14 (21) Blasting agents, nitro-carbo-nitrates, including noncap
- 15 sensitive slurry and water-gel explosives.
- 16 (22) Blasting caps.
- 17 (23) Blasting gelatin.
- 18 (24) Blasting powder.
- 19 (25) BTNEC (bis (trinitroethyl) carbonate).
- 20 (26) Bulk salutes.
- 21 (27) BTNEN (bis (trinitroethyl) nitramine).
- 22 (28) BTTN (1,2,4 butanetriol trinitrate).
- 23 (29) Butyl tetryl.
- 24 (30) Calcium nitrate explosive mixture.
- 25 (31) Cellulose hexanitrate explosive mixture.
- 26 (32) Chlorate explosive mixtures.
- 27 (33) Composition A and variations.
- 28 (34) Composition B and variations.
- 29 (35) Composition C and variations.
- 30 (36) Copper acetylide.
- 31 (37) Cyanuric triazide.
- 32 (38) Cyclotrimethylenetrinitramine (RDX).
- 33 (39) Cyclotetramethylenetetranitramine (HMX).
- 34 (40) Cyclonite (RDX).
- 35 (41) Cyclotol.
- 36 (42) DATB (diaminotrinitrobenzene).
- 37 (43) DDNP (diazodinitrophenol).
- 38 (44) DEGDN (diethyleneglycol dinitrate).
- 39 (45) Detonating cord.
- 40 (46) Detonators.
- 41 (47) Dimethylol dimethyl methane dinitrate composition.
- 42 (48) Dinitroethyleneurea.



- 1 (49) Dinitroglycerine (glycerol dinitrate).
- 2 (50) Dinitrophenol.
- 3 (51) Dinitrophenolates.
- 4 (52) Dinitrophenyl hydrazine.
- 5 (53) Dinitroresorcinol.
- 6 (54) Dinitrotoluene-sodium nitrate explosive mixtures.
- 7 (55) DIPAM.
- 8 (56) Dipicryl sulfone.
- 9 (57) Dipicrylamine.
- 10 (58) DNDP (dinitropentano nitrile).
- 11 (59) DNPA (2,2-dinitropropyl acrylate).
- 12 (60) Dynamite.
- 13 (61) EDDN (ethylene diamine dinitrate).
- 14 (62) EDNA.
- 15 (63) Ednatol.
- 16 (64) EDNP (ethyl 4,4-dinitropentanoate).
- 17 (65) Erythritol tetranitrate explosives.
- 18 (66) Esters of nitro substituted alcohols.
- 19 (67) EGDN (ethylene glycol dinitrate).
- 20 (68) Ethyl-tetryl.
- 21 (69) Explosive conitrates.
- 22 (70) Explosive gelatins.
- 23 (71) Explosive mixtures containing oxygen releasing inorganic
- 24 salts and hydrocarbons.
- 25 (72) Explosive mixtures containing oxygen releasing inorganic
- 26 salts and nitro bodies.
- 27 (73) Explosive mixtures containing oxygen releasing inorganic
- 28 salts and water insoluble fuels.
- 29 (74) Explosive mixtures containing oxygen releasing inorganic
- 30 salts and water soluble fuels.
- 31 (75) Explosive mixtures containing sensitized nitromethane.
- 32 (76) Explosive mixtures containing tetranitromethane
- 33 (nitroform).
- 34 (77) Explosive nitro compounds of aromatic hydrocarbons.
- 35 (78) Explosive organic nitrate mixtures.
- 36 (79) Explosive liquids.
- 37 (80) Explosive powders.
- 38 (81) Flash powder.
- 39 (82) Fulminate of mercury.
- 40 (83) Fulminate of silver.
- 41 (84) Fulminating gold.
- 42 (85) Fulminating mercury.



- 1 (86) Fulminating platinum.
- 2 (87) Fulminating silver.
- 3 (88) Gelatinized nitrocellulose.
- 4 (89) Gem-dinitro aliphatic explosive mixtures.
- 5 (90) Guanyl nitrosamino guanyl tetrazene.
- 6 (91) Guanyl nitrosamino guanylidene hydrazine.
- 7 (92) Hexogene or octogene and a nitrated N-methylaniline.
- 8 (93) Hexolites.
- 9 (94) HMX(cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine;
- 10 octogen).
- 11 (95) Hydrazinium nitrate/hydrazine/aluminum explosive
- 12 system.
- 13 (96) Hydrazoic acid.
- 14 (97) Igniter cord.
- 15 (98) Igniters.
- 16 (99) Initiating tube systems.
- 17 (100) KDNBF (potassium dinitrobenzo-furoxane).
- 18 (101) Lead azide.
- 19 (102) Lead mannite.
- 20 (103) Lead mononitroresorcinate.
- 21 (104) Lead picrate.
- 22 (105) Lead salts, explosive.
- 23 (106) Lead styphnate (styphnate of lead, lead
- 24 trinitroresorcinate).
- 25 (107) Liquid nitrated polyol and trimethylolethane.
- 26 (108) Liquid oxygen explosives.
- 27 (109) Magnesium ophorite explosives.
- 28 (110) Mannitol hexanitrate.
- 29 (111) MDNP (methyl 4,4-dinitropentanoate).
- 30 (112) MEAN (monoethanolamine nitrate).
- 31 (113) Mercuric fulminate.
- 32 (114) Mercury oxalate.
- 33 (115) Mercury tartrate.
- 34 (116) Metriol trinitrate.
- 35 (117) Minol-2 (40% TNT, 40% ammonium nitrate, 20%
- 36 aluminum).
- 37 (118) MMAN (monomethylamine nitrate); methylamine
- 38 nitrate.
- 39 (119) Mononitrotoluene-nitroglycerin mixture.
- 40 (120) Monopropellants.
- 41 (121) NIBTN (nitroisobutametriol trinitrate).
- 42 (122) Nitrate sensitized with gelled nitroparaffin.

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- 1 (123) Nitrated carbohydrate explosive.
- 2 (124) Nitrated glucoside explosive.
- 3 (125) Nitrated polyhydric alcohol explosives.
- 4 (126) Nitrates of soda explosive mixtures.
- 5 (127) Nitric acid and a nitro aromatic compound explosive.
- 6 (128) Nitric acid and carboxylic fuel explosive.
- 7 (129) Nitric acid explosive mixtures.
- 8 (130) Nitro aromatic explosive mixtures.
- 9 (131) Nitro compounds of furane explosive mixtures.
- 10 (132) Nitrocellulose explosive.
- 11 (133) Nitroderivative of urea explosive mixture.
- 12 (134) Nitrogelatin explosive.
- 13 (135) Nitrogen trichloride.
- 14 (136) Nitrogen tri-iodide.
- 15 (137) Nitroglycerine (NG, RNG, nitro, glyceryl trinitrate,
- 16 trinitroglycerine).
- 17 (138) Nitroglycide.
- 18 (139) Nitroglycol (ethylene glycol dinitrate, EGDN).
- 19 (140) Nitroguanidine explosives.
- 20 (141) Nitroparaffins explosive grade and ammonium nitrate
- 21 mixtures.
- 22 (142) Nitronium perchlorate propellant mixtures.
- 23 (143) Nitrostarch.
- 24 (144) Nitro substituted carboxylic acids.
- 25 (145) Nitrourea.
- 26 (146) Octogen (HMX).
- 27 (147) Octol (75% HMX, 25% TNT).
- 28 (148) Organic amine nitrates.
- 29 (149) Organic nitramines.
- 30 (150) PBX (RDX and plasticizer).
- 31 (151) Pellet powder.
- 32 (152) Penthrinite composition.
- 33 (153) Pentolit.
- 34 (154) Perchlorate explosive mixtures.
- 35 (155) Peroxide based explosive mixtures.
- 36 (156) PETN (nitropentaerythrite, pentaerythrite tetranitrate,
- 37 pentaerythritol tetranitrate).
- 38 (157) Picramic acid and its salts.
- 39 (158) Picramide.
- 40 (159) Picrate of potassium explosive mixtures.
- 41 (160) Picratol.
- 42 (161) Picric acid (manufactured as an explosive).

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- 1 (162) Picryl chloride.
- 2 (163) Picryl fluoride.
- 3 (164) PLX (95% nitromethane, 5% ethylenediamine).
- 4 (165) Polynitro aliphatic compounds.
- 5 (166) Polyolpolynitrate-nitrocellulose explosive gels.
- 6 (167) Potassium chlorate and lead sulfocyanate explosive.
- 7 (168) Potassium nitrate explosive mixtures.
- 8 (169) Potassium nitroaminotetrazole.
- 9 (170) Pyrotechnic compositions.
- 10 (171) PYX (2,6-bis(picrylamino)-3,5-dinitropyridine).
- 11 (172) RDX (cyclonite, hexogen, T4, cyclo-1,3,
- 12 5, -trimethylene-2,4,6, -trinitramine;
- 13 hexahydro-1,3,5-trinitro-S-triazine).
- 14 (173) Safety fuse.
- 15 (174) Salutes (bulk).
- 16 (175) Salts of organic amino sulfonic acid explosive mixture.
- 17 (176) Silver acetylide.
- 18 (177) Silver azide.
- 19 (178) Silver fulminate.
- 20 (179) Silver oxalate explosive mixtures.
- 21 (180) Silver styphnate.
- 22 (181) Silver tartrate explosive mixtures.
- 23 (182) Silver tetrazene.
- 24 (183) Slurried explosive mixtures of water, inorganic
- 25 oxidizing salt, gelling agent, fuel, and sensitizer, cap sensitive.
- 26 (184) Smokeless powder.
- 27 (185) Sodatol.
- 28 (186) Sodium amatol.
- 29 (187) Sodium azide explosive mixture.
- 30 (188) Sodium dinitro-ortho-cresolate.
- 31 (189) Sodium nitrate-potassium nitrate explosive mixture.
- 32 (190) Sodium picramate.
- 33 (191) Special fireworks (as defined in IC 22-11-14-1).
- 34 (192) Squibs.
- 35 (193) Styphnic acid explosives.
- 36 (194) Tacot (tetranitro-2,3,5,6-dibenzo-1,3a,4,6a
- 37 tetrazapentalene).
- 38 (195) TATB (triaminotrinitrobenzene).
- 39 (196) TATP (triacetone triperoxide).
- 40 (197) TEGDN (triethylene glycol dinitrate).
- 41 (198) Tetrazene (tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl
- 42 tetrazene hydrate).



- 1 (199) Tetranitrocarbazole.
- 2 (200) Tetryl (2,4,6 tetranitro-N-methylaniline).
- 3 (201) Tetrytol.
- 4 (202) Thickened inorganic oxidizer salt slurried explosive
- 5 mixture.
- 6 (203) TMETN (trimethylolethane trinitrate).
- 7 (204) TNEF (trinitroethyl formal).
- 8 (205) TNEOC (trinitroethylorthocarbonate).
- 9 (206) TNEOF (trinitroethylorthoformate).
- 10 (207) TNT (trinitrotoluene, trotyl, trilit, triton).
- 11 (208) Torpex.
- 12 (209) Tridite.
- 13 (210) Trimethylol ethyl methane trinitrate composition.
- 14 (211) Trimethylolthane trinitrate-nitrocellulose.
- 15 (212) Trimonite.
- 16 (213) Trinitroanisole.
- 17 (214) Trinitrobenzene.
- 18 (215) Trinitrobenzoic acid.
- 19 (216) Trinitrocresol.
- 20 (217) Trinitro-meta-cresol.
- 21 (218) Trinitronaphthalene.
- 22 (219) Trinitrophenetol.
- 23 (220) Trinitrophloroglucinol.
- 24 (221) Trinitroresorcinol.
- 25 (222) Tritonal.
- 26 (223) Urea nitrate.
- 27 (224) Water bearing explosives having salts of oxidizing acids
- 28 and nitrogen bases, sulfates, or sulfamates, cap sensitive.
- 29 (225) Water in oil emulsion explosive compositions.
- 30 (226) Xanthamona hydrophilic colloid explosive mixture.

Chapter 4. Registration and Control

Sec. 1. The office shall carry out a program to periodically inspect places where regulated explosives are manufactured.

Sec. 2. (a) The office may order any person engaged in the manufacture or handling of a regulated explosive and any person with control over a place where regulated explosives are manufactured or handled to maintain insurance covering fire and explosion losses. The order is not effective until sixty (60) days after the date that notice of the order is received.

(b) The state fire marshal shall specify the insurance required under subsection (a) in an amount not less than ten thousand dollars (\$10,000) or more than two hundred fifty thousand dollars



1 (\$250,000).

2 (c) Proof of the insurance required under this section must be
3 maintained with the department of insurance.

4 (d) The insurance commissioner may exempt a person from the
5 insurance requirements under this section if an applicant for the
6 exemption submits proof that the applicant has the financial ability
7 to discharge all judgments in the amount specified by the state fire
8 marshal. The insurance commissioner may revoke an exemption
9 under this subsection if the commissioner requires additional proof
10 of financial ability and:

11 (1) the exempted person fails to comply with the order; or

12 (2) the insurance commissioner determines that the exempted
13 person has failed to provide adequate proof of financial
14 ability.

15 Sec. 3. The office shall carry out a program to periodically
16 inspect places where regulated explosives are stored.

17 Sec. 4. (a) The office shall issue a regulated explosives magazine
18 permit to maintain an explosives magazine to an applicant who
19 qualifies under section 5 of this chapter.

20 (b) A permit issued under subsection (a) expires one (1) year
21 after it is issued. The permit is limited to storage of the types and
22 maximum quantities of explosives specified in the permit in the
23 place covered by the permit and under the construction and
24 location requirements specified in the rules of the commission.

25 Sec. 5. (a) To qualify for a regulated explosives permit, an
26 applicant must:

27 (1) submit information on the form provided by the state fire
28 marshal describing:

29 (A) the location of the affected magazine;

30 (B) the types and maximum quantities of explosives that
31 will be kept in the place covered by the application; and

32 (C) the distance that the affected magazine will be located
33 from the nearest highway, railway, and structure that is
34 also used as a place of habitation or assembly other than
35 for the manufacture of explosives;

36 (2) demonstrate through an inspection that the magazine is
37 constructed and located in accordance with the rules adopted
38 by the commission; and

39 (3) pay the fee under IC 22-12-6-6.

40 (b) To qualify for the renewal of a regulated explosives permit,
41 the applicant must pay the fee under IC 22-12-6-6.

42 Sec. 6. (a) This section does not apply to storage that is

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exempted from the requirements of this section in the rules adopted by the commission under IC 22-13-3.

(b) A person who:

- (1) stores a regulated explosive;
- (2) has control over a regulated explosive that is stored; or
- (3) has control over a place where a regulated explosive is stored;

without a regulated explosives magazine permit issued under this chapter that covers the storage commits a Class C infraction.

Sec. 7. A physician or hospital that knows or should know that the physician or hospital is treating a person for an injury inflicted while the person was making or using a destructive device shall report the injury to a local law enforcement agency under IC 35-47-7-5.

Chapter 5. Offenses Relating to Regulated Explosives

Sec. 1. Sections 2, 3, 4, 5, and 6 of this chapter do not apply to the following:

- (1) A person authorized to manufacture, possess, transport, distribute, or use a destructive device or detonator under the laws of the United States, as amended, or under Indiana law when the person is acting in accordance with the laws, regulations, and rules issued under federal or Indiana law.
- (2) A person who is issued a permit for blasting or surface coal mining by the director of the department of natural resources under IC 14-34 when the person is acting under the laws and rules of Indiana and any ordinances and regulations of the political subdivision or authority of the state where blasting or mining operations are being performed.
- (3) Fireworks (as defined in IC 22-11-14-1) and a person authorized by the laws of Indiana and of the United States to manufacture, possess, distribute, transport, store, exhibit, display, or use fireworks.
- (4) A law enforcement agency, a fire service agency, or an emergency management agency of Indiana, an agency or an authority of a political subdivision of the state or the United States, and an employee or authorized agent of the United States while in performance of official duties.
- (5) A law enforcement officer, a fire official, or an emergency management official of the United States or any other state if that person is attending training in Indiana.
- (6) The armed forces of the United States or of Indiana.
- (7) Research or educational programs conducted by or on



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behalf of a college, university, or secondary school that are:

(A) authorized by the chief executive officer of the educational institution or the officer's designee; or

(B) conducted under the policy of the educational institution;

and conducted in accordance with the laws of the United States and Indiana.

(8) The use of explosive materials in medicines and medicinal agents in forms prescribed by the most recent published edition of the official United States Pharmacopoeia or the National Formulary.

(9) Small arms ammunition and reloading components of small arms ammunition.

(10) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

(11) An explosive that is lawfully possessed for use in legitimate agricultural or business activities.

Sec. 2. A person who knowingly or intentionally:

(1) possesses;

(2) manufactures;

(3) transports;

(4) distributes;

(5) possesses with the intent to distribute; or

(6) offers to distribute;

a destructive device, unless authorized by law, commits a Class C felony.

Sec. 3. A person who has been convicted of a felony by an Indiana court or a court of any other state, the United States, or another country and knowingly or intentionally:

(1) possesses;

(2) manufactures;

(3) transports;

(4) distributes;

(5) possesses with the intent to distribute; or

(6) offers to distribute;

a regulated explosive commits a Class C felony. However, the offense is a Class B felony if the person has a prior unrelated conviction for an offense under this section.

Sec. 4. A person who knowingly or intentionally distributes a



regulated explosive to a person who has been convicted of a felony by an Indiana court or a court of another state, the United States, or another country commits a Class C felony.

Sec. 5. A person who knowingly or intentionally distributes or offers to distribute:

- (1) a destructive device;
- (2) an explosive; or
- (3) a detonator;

to a person who is less than eighteen (18) years of age commits a Class B felony.

Sec. 6. A person who:

- (1) manufactures;
- (2) possesses;
- (3) transports;
- (4) distributes; or
- (5) uses;

a hoax device or replica with the intent to cause another to believe that the hoax device or replica is a destructive device or detonator commits a Class D felony.

Sec. 7. A person who knowingly or intentionally hinders or obstructs:

- (1) a law enforcement officer;
- (2) a fire official;
- (3) an emergency management official;
- (4) an animal trained to detect destructive devices; or
- (5) a robot or mechanical device designed or used by a law enforcement officer, fire official, or emergency management official;

of Indiana or of the United States in the detection, disarming, or destruction of a destructive device commits a Class B felony.

Sec. 8. A person who:

- (1) possesses;
- (2) transports; or
- (3) receives;

a destructive device or explosive with the knowledge or intent that it will be used to kill, injure, or intimidate an individual or to destroy property commits a Class A felony.

Sec. 9. A person who knowingly or intentionally uses an overpressure device commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

Sec. 10. A person who knowingly or intentionally deploys a

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booby trap commits a Class D felony.

SECTION 61. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002]: IC 4-20.5-6-6; IC 22-12-1-21; IC 22-14-4; IC 35-47-5-1.

SECTION 62. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "committee" refers to the interim study committee on terrorism established by this SECTION.

(b) There is established the interim study committee on terrorism. The committee shall study issues related to terrorism.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires January 1, 2003.

SECTION 63. [EFFECTIVE JULY 1, 2002] (a) After June 30, 2002, a reference to the powers, duties, or functions of security officers of the Indiana department of administration in any statute or rule shall be treated as a reference to the state police department established by IC 10-1-1-1.

(b) This SECTION expires July 1, 2005.

SECTION 64. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this SECTION, "security officer activity" refers to all activities of the department that relate to the department's security officers under IC 4.

(c) As used in this SECTION, "state police" refers to the state police department established by IC 10-1-1-1.

(d) The security officer activity of the department is abolished, and all powers, duties, and functions adhering to the security officer activity of the department or the commissioner of the department are transferred to the state police.

(e) The property and records of the security officer activity of the department are transferred to the state police.

(f) This SECTION expires July 2, 2002.

SECTION 65. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this SECTION, "police employee" has the meaning set forth in IC 10-1-1-2.

(c) As used in this SECTION, "security officer activity" refers



to all activities of the department that relate to the department's security officers under IC 4.

(d) As used in this SECTION, "state police" refers to the state police department established by IC 10-1-1-1.

(e) The special police employees of the state police assigned to security activities under IC 10-1-1-29 or IC 10-1-1-30, both as added by this act, shall initially be composed of the employees of the department who are employed on June 30, 2002, as part of its security officer activity. Civilian employees of the department that support the security officer activity become employees of the state police.

(f) Except as provided in subsection (g), an employee of the department who becomes a member of the state police under subsection (e) on July 1, 2002:

(1) is entitled to have the employee's service under the department before July 1, 2002, included for the purpose of computing all applicable employment rights and benefits with the security section;

(2) is a member of the state retirement fund or pension plan in which the employee was a member on June 30, 2002; and

(3) if the employee was covered on June 30, 2002, by a labor agreement to which the state is a party, shall continue to be subject to the terms and conditions of the agreement and any successor labor agreements entered into by the state.

(g) An employee of the department who:

(1) becomes a member of the state police under subsection (e); and

(2) becomes a state police officer after fulfilling the law enforcement training requirements and all other requirements of the state police department;

is not entitled to have the employee's service under the department or the security section included for the purpose of computing all applicable employment rights and benefits as a state police officer.

(h) Positions of the department that are used to perform, or are in support of, the security officer activity that are vacant on June 30, 2002, are transferred to the state police.

(i) This subsection does not apply to an employee described in subsection (g). The salary of an employee of the department who becomes a member of the state police under subsection (e) does not change upon transfer to the state police.

(j) This subsection does not apply to an employee described in subsection (g). An employee of the department on June 30, 2002,

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1 who becomes a member of the state police under subsection (e) has
2 the same rank the employee held on June 30, 2002.

3 (k) All leases and obligations entered into by the department
4 related to the activities of the department's security officers under
5 IC 4 before July 1, 2002, that are legal and valid before July 1,
6 2002, are legal and valid after June 30, 2002.

7 SECTION 66. [EFFECTIVE JULY 1, 2002] (a) As used in this
8 SECTION, "security officer activity" refers to all activities of the
9 Indiana department of administration that relate to the
10 department's security officers under IC 4.

11 (b) Any appropriations made to the Indiana department of
12 administration for security officer activity or in support of security
13 officer activity are transferred to the state police department
14 established by IC 10-1-1-1, as added by this act.

15 (c) This SECTION expires July 1, 2003.

16 SECTION 67. [EFFECTIVE JULY 1, 2002] This act does not
17 affect the legality of an enforcement action, including an arrest,
18 performed by a security officer of the Indiana department of
19 administration before July 1, 2002.

20 SECTION 68. [EFFECTIVE UPON PASSAGE] (a) As used in this
21 SECTION, "officer" means a person who is:

22 (1) a security officer with the Indiana department of
23 administration on June 30, 2002; and

24 (2) an employee of the state police department assigned to
25 security activities after June 30, 2002;

26 under the provisions of this act.

27 (b) The superintendent of the state police department shall
28 make available to an officer law enforcement training:

29 (1) required by the superintendent; and

30 (2) at a time that enables the officer to complete the training
31 not later than July 1, 2003.

32 (c) This SECTION expires July 2, 2003.

33 SECTION 69. [EFFECTIVE JULY 1, 2002] IC 35-43-1-2,
34 IC 35-43-2-2, IC 35-45-1-3, IC 35-45-15-5, IC 35-47-12-1, and
35 IC 35-47-12-2, all as amended by this act, and IC 35-43-5-3.6 and
36 IC 35-47-12-3, both as added by this act, apply only to acts
37 committed after June 30, 2002.

38 SECTION 70. [EFFECTIVE UPON PASSAGE] (a)
39 Notwithstanding IC 9-24-6-2, as amended by this act, the bureau
40 of motor vehicles commission shall carry out the duties imposed
41 upon it under IC 9-24-6-2, as amended by this act, under interim
42 written guidelines approved by the commissioner of the bureau of



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1 motor vehicles.

2 (b) This SECTION expires on the earlier of the following:

3 (1) The date rules are adopted under IC 9-24-6-2.

4 (2) December 31, 2002.

5 SECTION 71. [EFFECTIVE UPON PASSAGE] (a)
6 Notwithstanding IC 10-4-1-30(g), as added by this act, the state
7 emergency management agency shall carry out the duties imposed
8 upon it by IC 10-4-1-30, as added by this act, under interim written
9 guidelines approved by the director.

10 (b) This SECTION expires on the earlier of the following:

11 (1) The date rules are adopted under IC 10-4-1-30(g).

12 (2) June 30, 2003.

13 SECTION 72. [EFFECTIVE JULY 1, 2002] (a) The general
14 assembly finds that the state needs the construction, equipping,
15 renovation, refurbishing, or alteration of communications system
16 infrastructure (as defined in IC 5-26-5-1, as added by this act).

17 (b) The general assembly finds that the state will have a
18 continuing need for use and occupancy of the communications
19 system infrastructure described in subsection (a). The general
20 assembly authorizes the state office building commission to provide
21 the communications system infrastructure described in subsection
22 (a) under IC 4-13.5-1 and IC 4-13.5-4, including the borrowing of
23 money or the issuance and sale of bonds, or both, under
24 IC 4-13.5-4.

25 SECTION 73. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 1001, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning antiterrorism measures and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-3-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 20. Counterterrorism and Security Council

Sec. 1. As used in this chapter, "council" refers to the counterterrorism and security council established by section 2 of this chapter.

Sec. 2. The counterterrorism and security council is established.

Sec. 3. (a) The council consists of the following members:

- (1) The lieutenant governor.**
- (2) The superintendent of the state police department.**
- (3) The adjutant general.**
- (4) The director of the state emergency management agency.**
- (5) The state fire marshal.**
- (6) The state health commissioner.**
- (7) The commissioner of the department of environmental management.**
- (8) The assistant commissioner of agriculture.**
- (9) The chairman of the Indiana utility regulatory commission.**
- (10) The commissioner of the Indiana department of transportation.**
- (11) The executive director of the Indiana criminal justice institute.**
- (12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.**
- (13) The speaker of the house of representatives.**
- (14) The president pro tempore of the senate.**
- (15) The chief justice of the supreme court.**

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice



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may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

Sec. 4. The lieutenant governor shall serve as the chair of the council and in this capacity, report directly to the governor.

Sec. 5. (a) The council shall do the following:

- (1) Develop a strategy to enhance the state's capacity to prevent and respond to terrorism.
- (2) Develop a counterterrorism plan in conjunction with relevant state agencies, including a comprehensive needs assessment.
- (3) Review each year and update when necessary the plan developed under subdivision (2).
- (4) Develop in concert with the law enforcement training academy a counterterrorism curriculum for use in basic police training and for advanced in-service training of veteran law enforcement officers.
- (5) Develop an affiliate of the council in each county to coordinate local efforts and serve as the community point of contact for the council and the United States Office of Homeland Security.

(b) The council shall report periodically its findings and recommendations to the governor.

Sec. 6. (a) The governor shall appoint an executive director for the council. The executive director may employ additional staff for the council, subject to the approval of the governor.

(b) The executive director of the council shall serve as:

- (1) the central coordinator for counterterrorism issues; and
- (2) the state's point of contact for:
 - (A) the Office of Domestic Preparedness in the United States Department of Justice; and
 - (B) the United States Office of Homeland Security.

Sec. 7. (a) The expenses of the council shall be paid from appropriations made by the general assembly.

(b) Money received by the council as a grant or a gift is appropriated for the purposes of the grant or the gift.

Sec. 8. (a) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established

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by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 9. The affirmative votes of a majority of the voting members of the council are required for the council to take action on any measure, including final reports.

Sec. 10. (a) The council may receive confidential law enforcement information from the state police department, the Federal Bureau of Investigation, or other federal, state, or local law enforcement agencies.

(b) For purposes of IC 5-14-1.5 and IC 5-14-3, information received under subsection (a) is confidential.

Sec. 11. All state agencies shall cooperate to the fullest extent possible with the council and the executive director to implement this chapter.

SECTION 2. IC 4-3-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 21. Discharge of the Governor's Powers and Duties by Individuals Other Than the Governor

Sec. 1. The purpose of this chapter is to implement Article 5, Section 10(e) of the Constitution of the State of Indiana.

Sec. 2. Except as provided in this chapter, an individual holding one (1) of the following offices shall discharge the powers and duties of the governor if the office of governor and the office of lieutenant governor are both vacant, in the order listed:

- (1) The speaker of the house of representatives.
- (2) The president pro tempore of the senate.
- (3) The attorney general.



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- (4) The treasurer of state.
- (5) The auditor of state.
- (6) The secretary of state.
- (7) The state superintendent of public instruction.
- (8) The clerk of the supreme court.

Sec. 3. An individual holding an office or position described in section 2 of this chapter may discharge the powers and duties of the governor only if all of the following apply:

- (1) The individual is a member of the same political party as the individual who most recently held the office of governor.
- (2) All offices listed in section 2 of this chapter before the office the individual holds are either:
 - (A) vacant; or
 - (B) held by individuals who are not members of the same political party as the individual who most recently held the office of governor.

Sec. 4. An individual's authority to discharge the governor's powers and duties under this chapter ends when the general assembly fills the office of governor under Article 5, Section 10 of the Constitution of the State of Indiana.

SECTION 3. IC 4-4-30 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 30. Center for Coal Technology Research

Sec. 1. As used in this chapter, "center" refers to the center for coal technology research established under this chapter.

Sec. 2. As used in this chapter, "director" refers to the director of the department of commerce.

Sec. 3. As used in this chapter, "fund" refers to the coal technology research fund established by section 8 of this chapter.

Sec. 4. As used in this chapter, "Indiana coal" has the meaning set forth in IC 8-1-2-6.1.

Sec. 5. The center for coal technology research is established to perform the following duties:

- (1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.
- (2) Investigate the reuse of clean coal technology byproducts, including fly ash.
- (3) Generate innovative research in the field of coal use.
- (4) Develop new, efficient, and economical sorbents for effective control of emissions.
- (5) Investigate ways to increase coal combustion efficiency.



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(6) Develop materials that withstand higher combustion temperatures.

(7) Any other matter concerning coal technology research as determined by the center.

Sec. 6. In carrying out its duties under this chapter, the center shall be located at Purdue University at West Lafayette and shall cooperate with and may use the resources of:

- (1) Indiana University Geological Survey and other state educational institutions;
- (2) a state or federal department or agency;
- (3) a political subdivision; and
- (4) interest groups representing business, environment, industry, science, and technology.

Sec. 7. To carry out the center's duties described in section 5 of this chapter, the director or the director's designee, acting on behalf of the center, may:

- (1) organize the center in the manner necessary to implement this chapter;
- (2) execute contractual agreements, including contracts for:
 - (A) the operation of the center;
 - (B) the performance of any of the duties described in section 5 of this chapter; and
 - (C) any other services necessary to carry out this chapter;
- (3) receive money from any source for purposes of this chapter;
- (4) expend money for an activity appropriate to the purposes of this chapter;
- (5) execute agreements and cooperate with:
 - (A) Purdue University and other state educational institutions;
 - (B) a state or federal department or agency;
 - (C) a political subdivision; and
 - (D) interest groups representing business, the environment, industry, science, and technology; and
- (6) subject to the approval of the budget agency, employ personnel as necessary for the efficient administration of this chapter.

Sec. 8. (a) The coal technology research fund is established for the purpose of providing money for the center for coal technology research and for the director to carry out the duties specified under this chapter. The budget agency shall administer the fund.

(b) The fund consists of the following:



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(1) Money appropriated by the general assembly.

(2) Gifts, grants, and bequests.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the treasurer may invest other public funds.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 4. IC 4-6-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) Whenever any state governmental official, ~~or~~ employee, (whether elected or appointed), **or construction industry professional (as defined in IC 10-4-1-3(6)) participating in the construction industry disaster volunteer program established by IC 10-4-1-30** is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of his duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-8.1-5-2(e), the attorney general shall defend the teacher throughout the action.

(c) A determination by the attorney general under subsection (a) or (b) shall not be admitted as evidence in the trial of any such civil action for damages.

(d) Nothing in this chapter shall be construed to deprive any such person of his right to select counsel of his own choice at his own expense.

SECTION 5. IC 4-6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Whenever any such action, counter-claim, petition, or cross-complaint is filed in any court in this state in which the state of Indiana or any board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or any construction industry professional (as defined in IC 10-4-1-3(6)) participating in the construction industry disaster volunteer program established by IC 10-4-1-30**, is a party and the attorney general is required or authorized to appear or defend, or when the attorney general is entitled to be heard, a copy of the complaint, cross-complaint, petition, bill, or pleading shall be served on the attorney general and such action,



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cross-action, or proceeding shall not be deemed to be commenced as to the state or ~~any such~~ the board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or as to the construction industry professional**, until such service. Whenever the attorney general has appeared in any suit, action, or proceeding, copies of all motions, demurrers, petitions, and pleadings filed therein shall be served upon the attorney general by the party filing the same; provided, further, that the clerk of the court shall cause to be served upon the attorney general a copy of the ruling made by the court upon such motions, demurrers, petitions, and pleadings, and such ruling shall not be deemed effective in any manner as against the attorney general, ~~or~~ as against the state of Indiana or ~~any the~~ board, bureau, commission, department, division, agency, or officer or employee in his capacity as an employee of the state of Indiana, **or as against the construction industry professional** unless and until such copy shall be served upon the attorney general or any deputy attorney general as provided in section 2 of this chapter; provided, further, that in any action in which the attorney general is required or authorized to appear or defend or entitled to be heard, in which action some matter or thing occurs upon which occurrence time begins to run, the running of such time shall be suspended as to the attorney general until such service is had upon the attorney general or any deputy attorney general as provided in section 2 of this chapter; provided, further, that whenever any claim filed for and on behalf of the state of Indiana or any board, bureau, commission, department, division, agency, officer, or institution of the state of Indiana in any estate or guardianship pending in any court having probate jurisdiction in the state of Indiana is not allowed and the clerk of the court, administrator, administratrix, executor, executrix, or guardian transfers such claim to the trial docket, said claim shall not be disposed of nor shall any disposition made of such claim be deemed to be a final adjudication unless and until due notice of the trial date of such claim shall be served on the attorney general or any deputy attorney general as provided in section 2 of this chapter at least ten (10) days prior to the date set for trial of said claim.

SECTION 6. IC 4-13.5-1-1, AS AMENDED BY P.L.291-2001, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this article:

"Commission" refers to the state office building commission.

"Communications system infrastructure" has the meaning set forth in IC 5-26-5-1.

"Construction" means the erection, renovation, refurbishing, or

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alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

"Correctional facility" means a building, a structure, or an improvement for the custody, care, confinement, or treatment of committed persons under IC 11.

"Department" refers to:

- (1) the integrated public safety commission, for purposes of a facility consisting of communications system infrastructure; and**
- (2) the Indiana department of administration, for purposes of all other facilities.**

"Mental health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of persons with mental or addictive disorders.

"Facility" means all or any part of one (1) or more buildings, structures, or improvements (whether new or existing), or parking areas (whether surface or an above or below ground parking garage or garages), owned or leased by the commission or the state for the purpose of:

- (1) housing the personnel or activities of state agencies or branches of state government;
- (2) providing transportation or parking for state employees or persons having business with state government;
- (3) providing a correctional facility;
- (4) providing a mental health facility; ~~or~~
- (5) providing a regional health facility; **or**
- (6) providing communications system infrastructure.**

"Person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

"Regional health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs.

"State agency" means an authority, a board, a commission, a committee, a department, a division, or other instrumentality of state government, but does not include a state educational institution (as defined in IC 20-12-0.5-1).

SECTION 7. IC 4-13.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **Subject to section**



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8 of this chapter, the commission may not enter into:

- (1) a contract for the performance of work, other than a contract of employment with a professional person or a commission employee; or
- (2) a contract for the purchase or sale of materials or supplies; without complying with IC 4-13-2 and the rules and procedures of the department.

SECTION 8. IC 4-13.5-1-8, AS AMENDED BY P.L.195-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The commission may employ architects, engineers, space planners, construction managers, and other professional persons it considers necessary to prepare complete plans and specifications necessary for bidding for construction. The commission shall consider economy of operation to the extent practicable in preparing and approving plans and specifications.

(b) The plans and specifications shall be presented for approval to:

- (1) the department;
- (2) if the facility is designed to house the supreme court or court of appeals, the administrator of the supreme court for approval by the courts; ~~and~~
- (3) if the facility is a correctional facility, the department of correction; ~~and~~
- (4) if the facility consists of communications system infrastructure, the integrated public safety commission.**

(c) After the plans and specifications have been approved by the commission under subsection (b), the commission shall advertise for and receive construction bids and award contracts to the best bidders in the same manner as required by law for the department. **However, with respect to a facility that consists of communications system infrastructure, if the commission finds that the integrated public safety commission has already advertised for and received construction bids or awarded contracts to the best bidders, or both, substantially in the same manner as required by law for the Indiana department of administration, the commission is not required to repeat the advertisement, receipt of bids, or award of contracts. In making the finding described in this subsection, the commission may rely upon a certificate of the integrated public safety commission. If the commission makes the finding described in this subsection, this is all the authority the commission needs to accept the assignment of the bids or contracts, or both, from the integrated public safety commission, and all the authority the integrated public safety commission needs to assign the bids or**

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contracts, or both, to the commission.

(d) With regard to participation by minority and women's business enterprises (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3), the commission shall act in the same manner as required by law for the department.

SECTION 9. IC 4-20.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. **(a) This section does not apply to enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

(b) The department shall maintain, equip, and operate the following:

- (1) The state capitol building.
- (2) The office buildings and other property owned or leased by the state for the use of an agency.

SECTION 10. IC 4-20.5-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. **(a) Except for enforcement matters that are the responsibility of the state police department under IC 10-1-1-29,** the commissioner is the custodian of state buildings and grounds.

(b) The commissioner may appoint security officers for the purpose of maintaining security and preserving the peace in and about the following:

- (1) The state capitol building.
- (2) A state office building.
- (3) A state parking facility.
- (4) A state motor pool garage.
- (5) A state warehouse.
- (6) The Indiana state library.
- (7) The governor's residence.
- (8) Any other building or other property used by the state for any of the following purposes:

(A) Housing the personnel or activities of an agency or a branch of state government.

(B) Providing transportation or parking for state employees or persons having business with state government.

(c) The commissioner and the security officers appointed by the commissioner possess all the common law and statutory powers of law enforcement officers, except for the service of civil process.

(d) For purposes of IC 5-2-1, the commissioner and security officers appointed under this chapter are special officers.

(e) All security officers are subject to preemployment investigation by the state police department.

SECTION 11. IC 4-20.5-6-7 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. The department ~~shall~~ **may** adopt rules under IC 4-22-2 to govern the protection and custody of state property, **except for enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

SECTION 12. IC 4-20.5-6-8, AS AMENDED BY P.L.172-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) **This section does not apply to enforcement matters that are the responsibility of the state police department under IC 10-1-1-29.**

(b) The commissioner may regulate:

- (1) the traffic and parking of motor vehicles, bicycles, or other vehicles; and
- (2) the traffic of pedestrians;

on the streets, roads, paths, and grounds of real property controlled by the state through the department ~~of administration~~ in and around the state capitol, office buildings, parking garages, and adjoining state controlled property.

~~(b)~~ (c) Rules adopted under subsection ~~(a)~~ (b) may include the following:

- (1) Provisions governing the registration, speed, weight, operation, parking, times, places, and use of motor vehicles, bicycles, and other vehicles.
- (2) Provisions governing the traffic of pedestrians.
- (3) Provisions prescribing the assessment and collection of civil penalties for the violation of rules adopted by the commissioner. Penalties may include the following:

- (A) The imposition of reasonable charges.
- (B) The removal and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of rules adopted by the commissioner.
- (C) The denial of permission to operate a vehicle on the property in and around the state capitol building, office buildings, parking garages, and adjoining state controlled property.

~~(c)~~ (d) Rules adopted under this section must include provisions for an administrative appeal when a civil penalty is imposed under the rules. A person aggrieved by a final disposition of an appeal by the department may appeal the disposition to a court of jurisdiction. The attorney general may enforce a civil penalty imposed under this section by filing an appropriate action in a court of jurisdiction.

~~(d)~~ (e) This section does not limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads,

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alleys, or ways.

SECTION 13. IC 5-22-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. **(a)** A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

(b) The counterterrorism and security council established by IC 4-3-20-2 may make a purchase under this section to preserve security or act in an emergency as determined by the governor.

SECTION 14. IC 5-26-2-5, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The commission's powers include the following:

- (1) Planning for voluntary coordination of resources by public safety agencies.
- (2) Developing coordinated, integrated responses to significant public safety events by those public safety agencies that choose to take part.
- (3) Developing means of sharing information operationally and technologically to improve public safety.
- (4) Contracting with consultants to assist in the planning and development under this article.
- (5) Contracting with others to provide services under this article.
- (6) Accepting gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agreeing to and complying with conditions attached thereto as necessary or appropriate to the purposes of the commission.**
- (7) Acquiring real property, or any interest therein, by lease, conveyance (including purchase) instead of foreclosure, or foreclosure as necessary or appropriate to the purposes of the commission.**
- (8) Owning, managing, operating, holding, clearing, improving, and constructing facilities on real property as necessary or appropriate to the purposes of the commission.**
- (9) Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering real property, or interests therein or facilities thereon as necessary or appropriate to the purposes of the commission.**
- (10) Acquiring personal property by lease or conveyance as necessary or appropriate to the purposes of the commission.**
- (11) Selling, assigning, exchanging, transferring, conveying,**

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leasing, mortgaging, or otherwise disposing of or encumbering personal property, or interests therein as necessary or appropriate to the purposes of the commission.

(12) The powers enumerated in IC 5-26-3-6.

~~(7) (13) Any other power necessary, proper, or convenient to accomplish the goals of the commission: carry out this article.~~

SECTION 15. IC 5-26-3-6, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) In addition to the powers enumerated in IC 5-26-2-5, the commission has the following powers related to the system:

- (1) Ensuring that federal and state communications requirements are followed.
- (2) Providing system planning, including mutual aid planning and compatibility planning with other public safety agency communications systems.
- (3) Creating a standard user agreement.
- (4) Providing assistance to local public safety agencies in making equipment purchases.
- (5) Assessing charges for using the system.
- (6) **Entering into and performing use and occupancy agreements concerning the system under IC 4-13.5.**
- (7) Exercising any power necessary to carry out this chapter.

(b) The Indiana statewide wireless public safety voice and data communications system may use the facilities of commercial mobile radio service providers (as defined in 47 USC 332). If the commission chooses to contract with one or more commercial mobile radio service providers to provide the system, the commission may delegate the responsibilities in subsection (a) to the commercial mobile radio service providers.

SECTION 16. IC 5-26-4-1, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The integrated public safety communications fund is established to be used only to carry out the purposes of this article. The fund shall be administered by the commission.

(b) The fund consists of:

- (1) appropriations from the general assembly;
- (2) gifts;
- (3) federal grants;
- (4) fees and contributions from user agencies that the commission considers necessary to maintain and operate the system; and



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(5) money from any other source permitted by law.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The commission shall transfer money from the fund to the communications system infrastructure fund in amounts sufficient to pay rentals and other obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.

SECTION 17. IC 5-26-4-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2. There is annually appropriated to the commission the money in the fund for its use, subject to the approval of the budget agency, in the acquisition, construction, equipping, operation, maintenance, and financing of the system and state user equipment for the system, including the payment of rentals and other obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.**

SECTION 18. IC 5-26-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 5. Communications System Infrastructure Fund

Sec. 1. As used in this chapter, "communications system infrastructure" means all or part of the infrastructure of the system described in IC 5-26-3, including:

- (1) towers and the associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the tower to function as part of the system;**
- (2) the radio and network equipment necessary, proper, or convenient to transmit and receive voice and data communications; and**
- (3) any other necessary, proper, or convenient elements of the system.**

Sec. 2. As used in this chapter, "construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site

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work, and providing for other ancillary facilities pertinent to the buildings or structures.

Sec. 3. As used in this chapter, "infrastructure fund" refers to the communications system infrastructure fund.

Sec. 4. The communications system infrastructure fund is established for the purpose of providing communications system infrastructure. The infrastructure fund consists of distributions received under IC 5-26-4-1(e).

Sec. 5. The infrastructure fund shall be administered by the commission. The treasurer of state shall invest the money in the infrastructure fund not currently needed to meet the obligations of the infrastructure fund in the same manner as other public funds may be invested.

Sec. 6. Money in the infrastructure fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 7. The commission may use the money in the infrastructure fund only to pay the following costs:

- (1) The cost of construction of communications system infrastructure.
- (2) The cost of acquisition or leasing of all real or personal property required for the construction of communications system infrastructure.
- (3) The cost of operation and maintenance of communications system infrastructure.
- (4) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the commission for the construction of communications system infrastructure.
- (5) Engineering and legal expenses, other professional services, and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.
- (6) Payment of rentals and other obligations and performance of other obligations under use and occupancy agreements or other contracts or leases relating to the financing of communications system infrastructure under IC 4-13.5.

Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the state office building commission from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.

Sec. 9. There is annually appropriated to the commission the money in the infrastructure fund for its use, subject to the approval

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of the budget agency, in carrying out the purposes described in section 7 of this chapter.

SECTION 19. IC 9-24-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. ~~2304~~, **31104**, 49 U.S.C. ~~2701~~ **31301** through ~~2716~~, **31306**, 49 U.S.C. **31308** through **31317**, and 49 CFR 383.

(c) Rules adopted under this section must include the following:

- (1) Establishment of classes and periods of validation of commercial driver's licenses.
- (2) Standards for commercial driver's licenses, including suspension and revocation procedures.
- (3) **Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of residence in Indiana.**
- (4) Development of written or oral tests, driving tests, and fitness requirements.
- ~~(4)~~ (5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including the Social Security number and a unique identifier of the holder.
- ~~(5)~~ (6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.
- ~~(6)~~ (7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.
- ~~(7)~~ ~~The~~ (8) Conditions for reciprocity with other states, **including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.**

~~(8)~~ (9) Other rules necessary to administer this chapter.

(d) 49 CFR 383 is adopted as Indiana law.

SECTION 20. IC 9-24-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A driver who:

- (1) is:
 - (A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or
 - (B) found to have violated section 8(7) of this chapter; and
- (2) has been previously convicted in a separate incident of any



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offense described in section 8(1) through 8(4) or 8(6) of this chapter;
is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

- (1) a felony under Indiana law that results in serious bodily injury or death to another person; or**
- (2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);**

is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

- (1) felony under Indiana law that results in serious bodily injury or death to another person; or**
- (2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);**

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

SECTION 21. IC 9-29-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. **(a) Except as provided by subsections (b) and (c), or as otherwise provided by this chapter,** the service charges collected under this chapter shall be deposited in the state license branch fund established under IC 9-29-14.

(b) One dollar and twenty-five cents (\$1.25) of each service charge increase established by a rule adopted under section 19 of this chapter before January 1, 2002, for services described in sections 4, 6, 7, 8, 9, 10, 11, 12, 14, and 18 of this chapter shall be deposited in the integrated public safety communications fund established by IC 5-26-4-1.

(c) One dollar and twenty-five cents (\$1.25) of each service charge established by a rule adopted under section 19 of this chapter before January 1, 2002, for services described in IC 9-29-15-1 shall be deposited in the integrated public safety communications fund established under IC 5-26-4-1.

SECTION 22. IC 10-1-1-28, AS ADDED BY P.L.69-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 28. (a) As used in this section, "dies in the line of

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duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that:

- (1) a motor carrier inspector; **or**
- (2) a special police employee of the department who is not a regular police employee of the department;**

is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of the inspector's **or special police employee's** regular duties.

(b) A special death benefit of one hundred fifty thousand dollars (\$150,000) for a motor carrier inspector **or special police employee** who dies in the line of duty shall be paid in a lump sum from the special death benefit fund established by IC 5-10-10-5 to the following relative of a motor carrier inspector who dies in the line of duty:

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

SECTION 23. IC 10-1-1-29 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2002]: **Sec. 29. (a) The department shall maintain security and preserve the peace in and about the following:**

- (1) The state capitol building.**
- (2) A state office building.**
- (3) A state parking facility.**
- (4) A state motor pool garage.**
- (5) A state warehouse.**
- (6) The Indiana state library.**
- (7) The governor's residence.**
- (8) Any other building or property used by the state for any of the following purposes:**
 - (A) Housing of personnel or activities of an agency or a branch of state government.**
 - (B) Providing transportation or parking for state employees or persons having business with state government.**

(b) A special police employee of the department assigned to the security activities under this section, other than an officer or police employee of the department who possesses police powers under section 10 of this chapter, possesses all of the common law and statutory powers of law enforcement officers, except for the service of civil process.



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(c) For purposes of IC 5-2-1, a special police employee assigned to the security activities under this section, other than a regular police employee of the department, is a special officer.

(d) Special police employees shall enforce IC 4-20.5 and rules of the Indiana department of administration.

(e) The superintendent may adopt rules under IC 4-22-2 to do the following:

(1) Enforce IC 4-20.5 and rules of the Indiana department of administration concerning the security of state property.

(2) Carry out the responsibilities for security of state property under this section.

SECTION 24. IC 10-1-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 30. The superintendent may assign a special police employee described in section 29(b) of this chapter to serve as a gaming agent under an agreement with the Indiana gaming commission under IC 4-33-4-3.6.**

SECTION 25. IC 10-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter:

(1) "Emergency management" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and coordination of the foregoing functions.

(2) "Political subdivision" has the meaning set forth in IC 36-1-2-13.

(3) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, other water contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile

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military or paramilitary action.

(4) "Energy" means coal, petroleum or other liquid fuels, natural or synfuel gas, or electricity.

(5) "Energy emergency" means an existing or projected shortfall of at least eight percent (8%) of motor fuel or of other energy sources which threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized.

(6) "Construction industry professional" means:

(A) an architect;

(B) a professional engineer;

(C) a construction industry contractor;

(D) a construction industry equipment dealer; or

(E) any other person engaged in the construction industry.

(7) "Program" refers to the construction industry disaster volunteer program established by section 30 of this chapter.

(8) "Emergency management worker" includes any:

(A) volunteer other than a person participating in the program; or

(B) full-time or part-time paid or auxiliary employee of:

(i) the state;

(ii) another state, territory, or possession of the United States, or the District of Columbia;

(iii) the federal government;

(iv) any political subdivision of an entity referred to in items (i) through (iii); or

(v) any agency or organization;

who performs emergency management services at any location in Indiana subject to the order or control of, or under a request of, the state or any political subdivision of the state.

SECTION 26. IC 10-4-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The department shall prepare and maintain a state emergency operations plan and keep it current, which plan may include:

(1) prevention and minimization of injury and damage caused by disaster;

(2) prompt and effective response to disaster;

(3) emergency relief;

(4) identification of areas particularly vulnerable to disaster;

(5) recommendations for:

(A) zoning;

(B) building;



- (C) other land use controls;
- (D) safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and
- (E) other preventive and preparedness measures designed to eliminate or reduce disaster or its impact;

shall be disseminated to both the fire prevention and building safety commission and local authorities;

- (6) assistance to local officials in designing local emergency action plans;
- (7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;
- (8) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
- (9) organization of manpower and chains of command;
- (10) coordination of federal, state, and local disaster activities;
- (11) coordination of the state disaster plan with the disaster plans of the federal government; and
- (12) other necessary matters.

(b) The department shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 10 of this chapter. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies. These personnel shall consult with subdivisions and agencies on a regularly scheduled basis, shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply, and may suggest revisions.

(c) In preparing and revising the state disaster plan, the department shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the department shall encourage them to seek advice from these sources.

(d) The state disaster plan or any part of the plan may be incorporated in rules of the department or executive orders.

(e) The department shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of

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an emergency;

(2) procure and pre-position supplies, medicines, materials, and equipment;

(3) promulgate standards and requirements for local and interjurisdictional disaster plans;

(4) provide for mobile support units;

(5) assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and programs of public information;

(6) make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;

(7) plan and make arrangements for the availability and use of any private facilities, services, and property, and if necessary and if in fact they are used provide for payment for use under terms and conditions agreed upon;

(8) establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;

(9) establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;

(10) prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disaster;

(11) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and

(12) do other things necessary, incidental, or appropriate for the implementation of this chapter.

(f) The department shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The department shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system or its several parts, the department shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The department shall make recommendations to the governor as appropriate.

(g) The department shall develop a statewide mutual aid program and a statewide mutual aid agreement.



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SECTION 27. IC 10-4-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5.5. (a) As used in this section, "agreement" refers to the mutual aid agreement created under section 5(g) of this chapter.

(b) As used in this section, "party" means a unit or state agency that has entered the agreement.

(c) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(d) The agreement must be a contract that provides for the following:

- (1) The procedures for the provision of mutual aid.
- (2) The term of the agreement and the method by which the agreement may be rescinded or terminated by a party before the termination date.
- (3) The terms and conditions governing reimbursement for any assistance provided.
- (4) The terms and conditions governing insurance.
- (5) The terms and conditions governing the assignment of liability. A party to the agreement is not liable for a claim made against or arising out of conduct of any other party to the agreement or the personnel of another party.
- (6) The role of the department.
- (7) Other terms and conditions needed to implement a statewide mutual aid program.

(e) Whenever an employee of a party is rendering outside aid under the authority of an agreement, the employee has the same powers, duties, rights, privileges, and immunities as if the employee were performing the duties within the employee's normal jurisdiction.

(f) A mutual aid arrangement or agreement entered by a unit under IC 36-1-7 before July 1, 2002, remains valid after July 1, 2002.

SECTION 28. IC 10-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) All functions under this chapter and all other activities relating to emergency management are governmental functions.

(b) Neither:

- (1) the state; ~~nor~~
- (2) any political subdivision of the state; ~~nor~~
- (3) any other agencies of the state or political subdivision of the state; nor



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(4) except in cases of willful misconduct, gross negligence, or bad faith, any:

(A) **construction industry professional who is participating in the program;**

(B) **person employing a construction industry professional who is participating in the program; or**

(C) emergency management worker;

complying with or reasonably attempting to comply with this chapter or any order or rule adopted under this chapter or under any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state shall be liable for the death of or injury to persons or for damage to property as a result of ~~any~~ such ~~an~~ activity.

(c) This section shall not affect the right of any person to receive:

(1) benefits to which the person would otherwise be entitled under:

(A) this chapter;

(B) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or

(C) any pension law; or

(2) any benefits or compensation under any federal law.

~~(b)~~ (d) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing duties as such, practice such professional, mechanical, or other skill during a disaster emergency.

(c) As used in this section, "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this state, or other states, territories, possessions, or the District of Columbia; or the federal government; or any neighboring country; or of any political subdivision of those entities; or of any agency or organization performing emergency management services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision of the state.

~~(d)~~ (e) A volunteer working as an authorized emergency management worker may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

SECTION 29. IC 10-4-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) **Subsection**



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(c) does not apply to a construction industry professional who is participating in the program.

(b) No person shall be employed or associated in any capacity in any emergency management organization established under this chapter who:

- (1) advocates a change by force or violence in the constitutional form of the government of the United States or the overthrow of any government in the United States by force or violence; or
- (2) has been convicted of or is under indictment or information charging any subversive act against the United States.

(b) (c) Each individual who is appointed to serve in an organization for emergency management shall, before entering upon the individual's duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of emergency management organization) I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

(c) (d) For the purposes of this section, the director and the county emergency management directors:

- (1) shall be authorized to administer the oath provided in subsection **(b) (c)** to emergency management and disaster personnel; and
- (2) may delegate that authority to designated deputies and assistants as may be approved by the director.

SECTION 30. IC 10-4-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) Each person within this state shall conduct himself, keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet



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disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this chapter are exceeded in a particular case and then only to the extent that the claimant may not have volunteered his services or property without compensation.

(b) No personal services may be compensated by the state or any subdivision or agency of it, except under statute, local law or ordinance.

(c) Compensation for property shall be paid only if the property was commandeered or otherwise used in coping with a disaster emergency and:

- (1) its use or destruction was ordered by the governor or a member of the disaster emergency forces of this state; **or**
- (2) the property was volunteered as a part of the construction industry disaster volunteer program.**

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall make a claim for it, which claim shall be filed and adjudicated as provided in IC ~~1971~~ 32-11.

(e) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

SECTION 31. IC 10-4-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 30. (a) The construction industry disaster volunteer program is established.**

(b) The department shall establish and administer the program.

(c) The program consists of construction industry professionals who have volunteered their:

- (1) personal services; or**
- (2) equipment, manned and unmanned;**

or both, to assist the department at the time of a disaster emergency declared under section 7 of this chapter.

(d) A construction industry professional who has volunteered for the program shall provide personal services or equipment, or both, upon terms and conditions specified by the director and agreed to by the construction industry professional.

(e) A construction industry professional participating in the



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program is entitled to receive reimbursement of expenses actually incurred for:

- (1) actual and necessary travel;
- (2) subsistence;
- (3) maintenance expenses; and
- (4) other expenses as approved by the director;

while engaged in duties during a disaster emergency declared under section 7 of this chapter.

(f) Section 8(a) of this chapter applies to a construction industry professional who is participating in the program.

(g) The department shall adopt rules under IC 4-22-2 to implement this section.

SECTION 32. IC 12-17.4-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The division shall deny a license when an applicant fails to meet the requirements for a license. The division shall deny a license to an applicant who has been convicted of any of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (~~IC 35-46-1-4(b)~~): **(IC 35-46-1-4(d))**.
- (16) A felony involving a weapon under IC 35-47 **or IC 35-47.5**.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

The division may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.



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(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

SECTION 33. IC 20-5-2-8, AS AMENDED BY P.L.197-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) This section applies to:

- (1) a school corporation; and
- (2) an entity:
 - (A) with which the school corporation contracts for services; and
 - (B) that has employees who are likely to have direct, ongoing contact with children within the scope of the employees' employment.

(b) A school corporation or entity may use information obtained under section 7 of this chapter concerning an individual's conviction for one (1) of the following offenses as grounds to not employ or contract with the individual:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.



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(13) Incest (IC 35-46-1-3).

(14) Neglect of a dependent as a Class B felony **(IC 35-46-1-4(b)(2))** unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(15) Child selling ~~(IC 35-46-1-4(c))~~: **(IC 35-46-1-4(d))**.

(16) Contributing to the delinquency of a minor (IC 35-46-1-8) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(17) An offense involving a weapon under IC 35-47 **or IC 35-47.5** unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(18) An offense relating to controlled substances under IC 35-48-4 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3 unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(20) An offense relating to operating a motor vehicle while intoxicated under IC 9-30-5 unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(21) An offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of conviction was entered under the law of any other jurisdiction.

(c) An individual employed by a school corporation or an entity described in subsection (a) shall notify the governing body of the school corporation if during the course of the individual's employment the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

SECTION 34. IC 22-12-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The commission may adopt rules under IC 4-22-2 setting a fee schedule for the following:

(1) Fireworks display permits issued under IC 22-11-14-2.

(2) Explosives magazine permits issued under ~~IC 22-14-4~~: **IC 35-47.5-4**.

(3) Design releases issued under IC 22-15-3.



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(4) Certification of industrialized building systems and mobile structures under IC 22-15-4.

(5) Inspection of regulated amusement devices under IC 22-15-7.

(6) Application fees for variance requests under IC 22-13-2-11 and inspection fees for exemptions under IC 22-13-4-5.

(b) Fee schedules set under this section must be sufficient to pay all of the costs, direct and indirect, that are payable from the fund into which the fee must be deposited, after deducting other money deposited in the fund. In setting these fee schedules, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

(c) The fee schedule set for design releases issued under subsection (a)(3) may not be changed more than one (1) time each year. The commission may include in this fee schedule a fee for the review of plans and specifications and, if a political subdivision does not have a program to periodically inspect the construction covered by the design release, a fee for inspecting the construction.

(d) The fee schedule set under subsection (a) for design releases may provide that a portion of the fees collected shall be deposited in the statewide fire and building safety education fund established under section 3 of this chapter.

SECTION 35. IC 22-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The commission shall adopt fire safety rules that prohibit the following:

(1) The storage of regulated explosives (**as defined in IC 35-47.5-2-13**) in quantities exceeding the maximum quantity specified by the commission.

(2) The storage of regulated explosives (**as defined in IC 35-47.5-2-13**) at a site that is located less than the minimum distance specified by the commission from a railroad, highway, or other place of habitation or assembly.

(3) The use of a receptacle, burning fixture or equipment, heating fixture or equipment, or structure for an explosive, flammable, or other combustible matter that does not meet the design and composition standards specified by the commission.

(4) The keeping, storage, use, manufacture, sale, handling, transportation, or disposition of an explosive, flammable, or other combustible matter in violation of any other requirements specified by the commission.

SECTION 36. IC 22-13-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) This section applies to the following laboratories:

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(1) Analytical laboratories approved by the office of the state fire marshal under the alternative criteria established by the commission in its rules.

(2) Laboratories that are:

(A) operated by a college, university, school, or other educational entity for the purpose of instruction or research; and

(B) approved by the office of the state fire marshal under the alternative criteria established by the commission in the rules.

(b) The commission may:

(1) apply different rules to the manufacture of regulated explosives **(as defined in IC 35-47.5-2-13)** in a laboratory described in subsection (a) than apply to other places where regulated explosives **(as defined in IC 35-47.5-2-13)** are manufactured; and

(2) adopt rules under IC 4-22-2 to exempt laboratories described in subsection (a) from the regulated explosive magazines permit requirement under ~~IC 22-14-4~~; **IC 35-47.5-4**.

SECTION 37. IC 31-19-11-1, AS AMENDED BY P.L.200-1999, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

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(7) proper consent, if consent is necessary, to the adoption has been given; and

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c);

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery as a felony (IC 35-42-2-1).
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A felony sex offense under IC 35-42-4.
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
- (15) Child selling (~~IC 35-46-1-4(b)~~): **(IC 35-46-1-4(d))**.
- (16) A felony involving a weapon under IC 35-47 **or IC 35-47.5**.
- (17) A felony relating to controlled substances under IC 35-48-4.
- (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.



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SECTION 38. IC 34-24-1-1, AS AMENDED BY P.L.17-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

- (i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (v) Dealing in a counterfeit substance (IC 35-48-4-5).
- (vi) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
- (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
- (viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-6-6.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property **used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or** commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in

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exchange for an act that is in violation of a criminal statute;
 (B) used to facilitate any violation of a criminal statute; or
 (C) traceable as proceeds of the violation of a criminal statute.
 (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:
 (A) commit, attempt to commit, or conspire to commit;
 (B) facilitate the commission of; or
 (C) escape from the commission of;
 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), **or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.**

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

- (A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
 - (B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
 - (C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
 - (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).
- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
- (8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
- (10) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.**

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to

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seizure under subsection (a).

(c) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).
- (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.
- (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.
- (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 39. IC 34-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) At the hearing, the prosecuting attorney must show by a preponderance of the evidence that the property was within the definition of property subject to seizure under section 1 of this chapter. If the property seized was a vehicle, the prosecuting attorney must also show by a preponderance of the evidence that a person who has an ownership interest of record in the bureau of motor vehicles knew or had reason to know that the vehicle was being used in the commission of the offense.

(b) If the prosecuting attorney fails to meet the burden of proof, the court shall order the property released to the owner.

(c) If the court enters judgment in favor of the state, or the state and a unit (if appropriate), the court, subject to section 5 of this chapter, shall order delivery to the law enforcement agency that seized the property. The court's order may permit the agency to use the property for a period not to exceed three (3) years. However, the order must require that, after the period specified by the court, the law enforcement agency shall deliver the property to the county sheriff for public sale.

(d) If the court enters judgment in favor of the state, or the state and

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a unit (if appropriate), the court shall, subject to section 5 of this chapter:

- (1) determine the amount of law enforcement costs; and
- (2) order that:
 - (A) the property, if it is not money or real property, be sold under section 6 of this chapter, by the sheriff of the county in which the property was seized, and if the property is a vehicle, this sale must occur after any period of use specified in subsection (c);
 - (B) the property, if it is real property, be sold in the same manner as real property is sold on execution under IC 34-55-6;
 - (C) the proceeds of the sale or the money be:
 - (i) deposited in the general fund of the state, or the unit that employed the law enforcement officers that seized the property; **or**
 - (ii) **deposited in the general fund of a unit if the property was seized by a local law enforcement agency of the unit for an offense, an attempted offense, or a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism; and**
 - (D) any excess in value of the proceeds or the money over the law enforcement costs be forfeited and transferred to the treasurer of state for deposit in the common school fund.
- (e) If property that is seized under this chapter (or IC 34-4-30.1-4 before its repeal) is transferred:
 - (1) after its seizure, but before an action is filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal); or
 - (2) when an action filed under section 3 of this chapter (or IC 34-4-30.1-3 before its repeal) is pending;

the person to whom the property is transferred must establish an ownership interest of record as a bona fide purchaser for value. A person is a bona fide purchaser for value under this section if the person, at the time of the transfer, did not have reasonable cause to believe that the property was subject to forfeiture under this chapter.

(f) If the property seized was an unlawful telecommunications device (as defined in IC 35-45-13-6) or plans, instructions, or publications used to commit an offense under IC 35-45-13, the court may order the sheriff of the county in which the person was convicted of an offense under IC 35-45-13 to destroy as contraband or to otherwise lawfully dispose of the property.

SECTION 40. IC 34-30-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. IC 10-4-1-8



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(Concerning the state, political subdivisions, ~~and~~ emergency management workers, **and construction industry professionals** for injury, death, or property damage).

SECTION 41. IC 35-38-2.5-4.7, AS ADDED BY P.L.137-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

(1) convicted of an offense or attempted offense, except for an offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, ~~or~~ IC 35-47-5-1 (**repealed**), **or IC 35-47.5-5;**

(2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, ~~or~~ IC 35-47-5-1 (**repealed**), **or IC 35-47.5-5;** or

(3) a security risk as determined under section 10 of this chapter.

SECTION 42. IC 35-41-1-8, AS AMENDED BY P.L.156-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. "Deadly weapon" means the following:

(1) A loaded or unloaded firearm.

(2) A **destructive device**, weapon, device, taser (as defined in IC 35-47-8-3) or electronic stun weapon (as defined in IC 35-47-8-1), equipment, chemical substance, or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.

(3) An animal (as defined in IC 35-46-3-3) that is:

(A) readily capable of causing serious bodily injury; and

(B) used in the commission or attempted commission of a crime.

(4) A biological disease, virus, or organism that is capable of causing serious bodily injury.

SECTION 43. IC 35-41-1-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 8.5. "Destructive device" has the meaning set forth in IC 35-47.5-2-4.**

SECTION 44. IC 35-41-1-10.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 10.7. "Food processing facility" means a facility used to prepare or process animal, plant, or other food ingredients into food products intended for sale or distribution to the general public for human consumption.**



SECTION 45. IC 35-43-1-1, AS AMENDED BY P.L.88-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A person who, by means of fire, ~~or~~ explosive, **or destructive device**, knowingly or intentionally damages:

- (1) a dwelling of another person without the other person's consent;
- (2) property of any person under circumstances that endanger human life;
- (3) property of another person without the other person's consent if the pecuniary loss is at least five thousand dollars (\$5,000); or
- (4) a structure used for religious worship without the consent of the owner of the structure;

commits arson, a Class B felony. However, the offense is a Class A felony if it results in either bodily injury or serious bodily injury to any person other than a defendant.

(b) A person who commits arson for hire commits a Class B felony. However, the offense is a Class A felony if it results in bodily injury to any other person.

(c) A person who, by means of fire, ~~or~~ explosive, **or destructive device**, knowingly or intentionally damages property of any person with intent to defraud commits arson, a Class C felony.

(d) A person who, by means of fire, ~~or~~ explosive, **or destructive device**, knowingly or intentionally damages property of another person without the other person's consent so that the resulting pecuniary loss is at least two hundred fifty dollars (\$250) but less than five thousand dollars (\$5,000) commits arson, a Class D felony.

SECTION 46. IC 35-43-1-2, AS AMENDED BY P.L.100-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

- (A) a Class A misdemeanor if:
 - (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
 - (ii) the property damaged was a moving motor vehicle;



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(iii) the property damaged was a car or equipment of a railroad company being operated on a railroad right-of-way;
or

(iv) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; ~~or~~

(v) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); **or**

(vi) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;

(2) a school or community center;

(3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court

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determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 47. IC 35-43-2-2, AS AMENDED BY P.L.259-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
- (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;
- (3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
- (4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;
- (5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; or
- (6) knowingly or intentionally:
 - (A) travels by train without lawful authority or the railroad carrier's consent; and
 - (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, **on a food processing facility**, on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

- (1) personal communication, oral or written; or
- (2) posting or exhibiting a notice at the main entrance in a manner

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that is either prescribed by law or likely to come to the attention of the public.

(c) Subsections (a) and (b) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

- (A) as a passenger; or
- (B) for the purpose of transacting lawful business.

(6) A:

- (A) person; or
- (B) person's:
 - (i) family member;
 - (ii) invitee;
 - (iii) employee;
 - (iv) agent; or
 - (v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties."

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 49. IC 35-44-2-2, AS AMENDED BY P.L.156-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

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(1) the person or another person has placed or intends to place an explosive, **a destructive device**, or other destructive substance in a building or transportation facility;
 (2) there has been or there will be tampering with a consumer product introduced into commerce; or
 (3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;
 knowing the report to be false commits false reporting, a Class D felony.

(c) A person who:

- (1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;
- (2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;
- (3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false; or
- (4) gives a false report concerning a missing child (as defined in IC 10-1-7-2) or gives false information in the official investigation of a missing child knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

SECTION 50. IC 35-45-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. A person who recklessly, knowingly, or intentionally:

- (1) engages in fighting or in tumultuous conduct;
- (2) makes unreasonable noise and continues to do so after being asked to stop; or
- (3) disrupts a lawful assembly of persons;

commits disorderly conduct, a Class B misdemeanor. **However, the offense is a Class D felony if it adversely affects airport security and is committed in an airport (as defined in IC 8-21-1-1) or on the premises of an airport, including in a parking area, a maintenance bay, or an aircraft hangar.**

SECTION 51. IC 35-45-6-1, AS AMENDED BY P.L.17-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

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"Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Child exploitation (IC 35-42-4-4).
- (9) Robbery (IC 35-42-5-1).
- (10) Carjacking (IC 35-42-5-2).
- (11) Arson (IC 35-43-1-1).
- (12) Burglary (IC 35-43-2-1).
- (13) Theft (IC 35-43-4-2).
- (14) Receiving stolen property (IC 35-43-4-2).
- (15) Forgery (IC 35-43-5-2).
- (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- (17) Bribery (IC 35-44-1-1).
- (18) Official misconduct (IC 35-44-1-2).
- (19) Conflict of interest (IC 35-44-1-3).
- (20) Perjury (IC 35-44-2-1).
- (21) Obstruction of justice (IC 35-44-3-4).
- (22) Intimidation (IC 35-45-2-1).
- (23) Promoting prostitution (IC 35-45-4-4).
- (24) Promoting professional gambling (IC 35-45-5-4).
- (25) Dealing in or manufacturing cocaine, a narcotic drug, or



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methamphetamine (IC 35-48-4-1).

(26) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(27) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(28) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(30) Money laundering (IC 35-45-15-5).

(31) A violation of IC 35-47.5-5."

Page 2, between lines 29 and 30, begin a new paragraph and insert:
"SECTION 53. IC 35-47-5-8, AS AMENDED BY P.L.104-2000,
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2002]: Sec. 8. A person who owns or possesses

~~(1) a machine gun or~~

~~(2) a bomb;~~

commits a Class C felony.

SECTION 54. IC 35-47-5-9, AS AMENDED BY P.L.104-2000,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2002]: Sec. 9. A person who

~~(1) operates a loaded machine gun or~~

~~(2) hurls, drops, places, or detonates a bomb;~~

commits a Class B felony.

SECTION 55. IC 35-47-5-10, AS AMENDED BY P.L.104-2000,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2002]: Sec. 10. The provisions of sections 8 or 9 of this
chapter shall not be construed to apply to any of the following:

(1) Members of the military or naval forces of the United States,
National Guard of Indiana, or Indiana State Guard, when on duty
or practicing.

(2) Machine guns ~~or bombs~~ kept for display as relics and which
are rendered harmless and not usable.

(3) Any of the law enforcement officers of this state or the United
States while acting in the furtherance of their duties.

(4) Persons lawfully engaged in the display, testing, or use of
fireworks.

(5) Agencies of state government.

(6) Persons permitted by law to engage in the business of
manufacturing, assembling, conducting research on, or testing
machine guns, ~~bombs~~, airplanes, tanks, armored vehicles, or
ordnance equipment or supplies while acting within the scope of
such business.

(7) Persons possessing, or having applied to possess, machine

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guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.

(8) Persons lawfully engaged in the manufacture, transportation, distribution, use or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.

SECTION 56. IC 35-47-7-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. The:**

- (1) physician who treats a person; or**
- (2) administrator or the administrator's designee of the hospital or outpatient surgical center where a person was treated;**

who knows or should know that the physician or hospital is treating a person for an injury that was inflicted while the person was making or using a destructive device shall report the case to a local law enforcement agency not more than seventy-two (72) hours after the person is treated. The report may be made orally or in writing."

Page 3, between lines 21 and 22, begin a new paragraph and insert:

SECTION 60. IC 35-47.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

ARTICLE 47.5. CONTROLLED EXPLOSIVES

Chapter 1. Applicability

Sec. 1. This article does not apply to the following:

- (1) Fertilizers, propellant actuated devices, or propellant activated industrial tools:**

- (A) manufactured;**
- (B) imported;**
- (C) distributed; or**
- (D) used;**

for their designed purposes.

- (2) A pesticide that is:**

- (A) manufactured;**
- (B) stored;**
- (C) transported;**
- (D) distributed;**
- (E) possessed; or**
- (F) used;**

for its designed purposes or in accordance with Chapter 7 of Title 2, the federal Insecticide, Fungicide, and Rodenticide

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Act, 61 Stat. 163, as amended, and the federal Environmental Pesticide Control Act of 1972, P.L.92-516, as amended.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Booby trap" means a device meant to cause death or bodily injury by:

- (1) hiding the device; or
- (2) activating the device by trip wires, switches, antidisturbance, or other remote means.

Sec. 3. "Commission" refers to the fire prevention and building safety commission established by IC 22-12-2-1.

Sec. 4. (a) "Destructive device" means:

(1) an explosive, incendiary, or overpressure device that is configured as a:

- (A) bomb;
- (B) grenade;
- (C) rocket with a propellant charge of more than four (4) ounces;
- (D) missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce;
- (E) mine;
- (F) Molotov cocktail; or
- (G) device that is substantially similar to an item described in clauses (A) through (F);

(2) a type of weapon that may be readily converted to expel a projectile by the action of an explosive or other propellant through a barrel that has a bore diameter of more than one-half (1/2) inch; or

(3) a combination of parts designed or intended for use in the conversion of a device into a destructive device.

(b) The term does not include the following:

- (1) A pistol, rifle, shotgun, or weapon suitable for sporting or personal safety purposes or ammunition.
- (2) A device that is neither designed nor redesigned for use as a weapon.
- (3) A device that, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.
- (4) A surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense.

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Sec. 5. "Detonator" means a device containing a detonating charge that is used to initiate detonation in an explosive, including the following:

- (1) Electric blasting caps.
- (2) Blasting caps for use with safety fuses.
- (3) Detonating cord delay connectors.
- (4) Blasting caps for use with a shock tube.
- (5) Improvised devices designed to function as a detonator.

Sec. 6. "Distribute" means the actual, constructive, or attempted transfer from one (1) person to another.

Sec. 7. "Explosives" means a chemical compound or other substance or mechanical system intended to produce an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion capable of causing injury to persons or damage to property, including the substances designated in IC 35-47.5-3. The term does not include the following:

- (1) A model rocket and model rocket engine designed, sold, and used to propel recoverable aero models.
- (2) A paper cap in which the explosive content does not average more than twenty-five hundredths (0.25) grains of explosive mixture per paper cap for toy pistols, toy cannons, toy canes, toy guns, or other devices using paper caps unless the paper cap is used as a component of a destructive device.

Sec. 8. "Hoax device" or "replica" means a device or article that has the appearance of a destructive device or detonator.

Sec. 9. "Incendiary" means a flammable liquid or compound with a flash point not greater than one hundred fifty (150) degrees Fahrenheit, as determined by a Tagliabue or an equivalent closed cup device, including gasoline, kerosene, fuel oil, or a derivative of these substances.

Sec. 10. "Office" refers to the office of the state fire marshal.

Sec. 11. "Overpressure device" means:

- (1) a frangible container filled with an explosive gas or expanding gas that is designed or constructed to cause the container to break or fracture in a manner that is capable of causing death, bodily harm, or property damage; or
- (2) a container filled with an explosive gas or expanding gas or chemicals that generate an expanding gas.

Sec. 12. "Property" means real or personal property of any

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kind, including money, choses in action, and other similar interests in property.

Sec. 13. (a) "Regulated explosive" includes:

- (1) a destructive device; and
- (2) an explosive.

(b) The term does not include the following:

- (1) An explosive in a manufactured article that is designed and packaged in a manner that is likely to prevent an explosion resulting in property damage or personal injury. A manufactured article to which this subdivision applies includes fixed ammunition for small arms, a firework, and a safety fuse match.
- (2) Gasoline, kerosene, naphtha, turpentine, or benzine.
- (3) An explosive that is being transported on or in a vessel, railroad car, or highway vehicle in conformity with the regulations adopted by the United States Department of Transportation.
- (4) A blasting explosive that is transported or used for agricultural purposes and that is in a quantity that does not exceed two hundred (200) pounds.
- (5) Ammonium nitrate compounds kept for mining purposes at coal mines regulated under IC 14-34.

Chapter 3. Classification of Regulated Explosives

Sec. 1. The following materials are regulated explosives within the meaning of this article:

- (1) Acetylides of heavy metals.
- (2) Aluminum containing polymeric propellant.
- (3) Aluminum ophorite explosive.
- (4) Amatex.
- (5) Amatol.
- (6) Ammonal.
- (7) Ammonium nitrate explosive mixtures, cap sensitive.
- (8) Ammonium nitrate explosive mixtures, noncap sensitive.
- (9) Aromatic nitro-compound explosive mixtures.
- (10) Ammonium perchlorate explosive mixtures.
- (11) Ammonium perchlorate composite propellant.
- (12) Ammonium picrate (picrate of ammonia, explosive D).
- (13) Ammonium salt lattice with isomorphously substituted inorganic salts.
- (14) Ammonium tri-iodide.
- (15) ANFO (ammonium nitrate-fuel oil).
- (16) Baratol.



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- (17) Baronol.
- (18) BEAF (1,2-bis (2,2-difluoro-2-nitroacetoxyethane)).
- (19) Black powder.
- (20) Black powder based explosive mixtures.
- (21) Blasting agents, nitro-carbo-nitrates, including noncap sensitive slurry and water-gel explosives.
- (22) Blasting caps.
- (23) Blasting gelatin.
- (24) Blasting powder.
- (25) BTNEC (bis (trinitroethyl) carbonate).
- (26) Bulk salutes.
- (27) BTNEN (bis (trinitroethyl) nitramine).
- (28) BTTN (1,2,4 butanetriol trinitrate).
- (29) Butyl tetryl.
- (30) Calcium nitrate explosive mixture.
- (31) Cellulose hexanitrate explosive mixture.
- (32) Chlorate explosive mixtures.
- (33) Composition A and variations.
- (34) Composition B and variations.
- (35) Composition C and variations.
- (36) Copper acetylide.
- (37) Cyanuric triazide.
- (38) Cyclotrimethylenetrinitramine (RDX).
- (39) Cyclotetramethylenetetranitramine (HMX).
- (40) Cyclonite (RDX).
- (41) Cyclotol.
- (42) DATB (diaminotrinitrobenzene).
- (43) DDNP (diazodinitrophenol).
- (44) DEGDN (diethyleneglycol dinitrate).
- (45) Detonating cord.
- (46) Detonators.
- (47) Dimethylol dimethyl methane dinitrate composition.
- (48) Dinitroethyleneurea.
- (49) Dinitroglycerine (glycerol dinitrate).
- (50) Dinitrophenol.
- (51) Dinitrophenolates.
- (52) Dinitrophenyl hydrazine.
- (53) Dinitroresorcinol.
- (54) Dinitrotoluene-sodium nitrate explosive mixtures.
- (55) DIPAM.
- (56) Dipicryl sulfone.
- (57) Dipicrylamine.

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- (58) DNDP (dinitropentano nitrile).
 (59) DNPA (2,2-dinitropropyl acrylate).
 (60) Dynamite.
 (61) EDDN (ethylene diamine dinitrate).
 (62) EDNA.
 (63) Ednatol.
 (64) EDNP (ethyl 4,4-dinitropentanoate).
 (65) Erythritol tetranitrate explosives.
 (66) Esters of nitro substituted alcohols.
 (67) EGDN (ethylene glycol dinitrate).
 (68) Ethyl-tetryl.
 (69) Explosive conitrates.
 (70) Explosive gelatins.
 (71) Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
 (72) Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
 (73) Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
 (74) Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
 (75) Explosive mixtures containing sensitized nitromethane.
 (76) Explosive mixtures containing tetranitromethane (nitroform).
 (77) Explosive nitro compounds of aromatic hydrocarbons.
 (78) Explosive organic nitrate mixtures.
 (79) Explosive liquids.
 (80) Explosive powders.
 (81) Flash powder.
 (82) Fulminate of mercury.
 (83) Fulminate of silver.
 (84) Fulminating gold.
 (85) Fulminating mercury.
 (86) Fulminating platinum.
 (87) Fulminating silver.
 (88) Gelatinized nitrocellulose.
 (89) Gem-dinitro aliphatic explosive mixtures.
 (90) Guanyl nitrosamino guanyl tetrazene.
 (91) Guanyl nitrosamino guanylidene hydrazine.
 (92) Hexogene or octogene and a nitrated N-methylaniline.
 (93) Hexolites.
 (9 4) H M X



- (cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine; octogen).
- (95) Hydrazinium nitrate/hydrazine/aluminum explosive system.
- (96) Hydrazoic acid.
- (97) Igniter cord.
- (98) Igniters.
- (99) Initiating tube systems.
- (100) KDNBF (potassium dinitrobenzo-furoxane).
- (101) Lead azide.
- (102) Lead mannite.
- (103) Lead mononitroresorcinate.
- (104) Lead picrate.
- (105) Lead salts, explosive.
- (106) Lead styphnate (styphnate of lead, lead trinitroresorcinate).
- (107) Liquid nitrated polyol and trimethylolethane.
- (108) Liquid oxygen explosives.
- (109) Magnesium ophorite explosives.
- (110) Mannitol hexanitrate.
- (111) MDNP (methyl 4,4-dinitropentanoate).
- (112) MEAN (monoethanolamine nitrate).
- (113) Mercuric fulminate.
- (114) Mercury oxalate.
- (115) Mercury tartrate.
- (116) Metriol trinitrate.
- (117) Minol-2 (40% TNT, 40% ammonium nitrate, 20% aluminum).
- (118) MMAN (monomethylamine nitrate); methylamine nitrate.
- (119) Mononitrotoluene-nitroglycerin mixture.
- (120) Monopropellants.
- (121) NIBTN (nitroisobutametriol trinitrate).
- (122) Nitrate sensitized with gelled nitroparaffin.
- (123) Nitrated carbohydrate explosive.
- (124) Nitrated glucoside explosive.
- (125) Nitrated polyhydric alcohol explosives.
- (126) Nitrates of soda explosive mixtures.
- (127) Nitric acid and a nitro aromatic compound explosive.
- (128) Nitric acid and carboxylic fuel explosive.
- (129) Nitric acid explosive mixtures.
- (130) Nitro aromatic explosive mixtures.
- (131) Nitro compounds of furane explosive mixtures.



- (132) Nitrocellulose explosive.
- (133) Nitroderivative of urea explosive mixture.
- (134) Nitrogelatin explosive.
- (135) Nitrogen trichloride.
- (136) Nitrogen tri-iodide.
- (137) Nitroglycerine (NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine).
- (138) Nitroglycide.
- (139) Nitroglycol (ethylene glycol dinitrate, EGDN).
- (140) Nitroguanidine explosives.
- (141) Nitroparaffins explosive grade and ammonium nitrate mixtures.
- (142) Nitronium perchlorate propellant mixtures.
- (143) Nitrostarch.
- (144) Nitro substituted carboxylic acids.
- (145) Nitrourea.
- (146) Octogen (HMX).
- (147) Octol (75% HMX, 25% TNT).
- (148) Organic amine nitrates.
- (149) Organic nitramines.
- (150) PBX (RDX and plasticizer).
- (151) Pellet powder.
- (152) Penthrinite composition.
- (153) Pentolit.
- (154) Perchlorate explosive mixtures.
- (155) Peroxide based explosive mixtures.
- (156) PETN (nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate).
- (157) Picramic acid and its salts.
- (158) Picramide.
- (159) Picrate of potassium explosive mixtures.
- (160) Picratol.
- (161) Picric acid (manufactured as an explosive).
- (162) Picryl chloride.
- (163) Picryl fluoride.
- (164) PLX (95% nitromethane, 5% ethylenediamine).
- (165) Polynitro aliphatic compounds.
- (166) Polyolpolynitrate-nitrocellulose explosive gels.
- (167) Potassium chlorate and lead sulfocyanate explosive.
- (168) Potassium nitrate explosive mixtures.
- (169) Potassium nitroaminotetrazole.
- (170) Pyrotechnic compositions.



- (171) PYX (2,6-bis(picrylamino)-3,5-dinitropyridine).
 (172) RDX (cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-rinitramine; hexahydro-1,3,5-trinitro-S-triazine).
 (173) Safety fuse.
 (174) Salutes (bulk).
 (175) Salts of organic amino sulfonic acid explosive mixture.
 (176) Silver acetylide.
 (177) Silver azide.
 (178) Silver fulminate.
 (179) Silver oxalate explosive mixtures.
 (180) Silver styphnate.
 (181) Silver tartrate explosive mixtures.
 (182) Silver tetrazene.
 (183) Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer, cap sensitive.
 (184) Smokeless powder.
 (185) Sodatol.
 (186) Sodium amatol.
 (187) Sodium azide explosive mixture.
 (188) Sodium dinitro-ortho-cresolate.
 (189) Sodium nitrate-potassium nitrate explosive mixture.
 (190) Sodium picramate.
 (191) Special fireworks (as defined in IC 22-11-14-1).
 (192) Squibs.
 (193) Styphnic acid explosives.
 (194) Tacot (tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene).
 (195) TATB (triaminotrinitrobenzene).
 (196) TATP (triacetone triperoxide).
 (197) TEGDN (triethylene glycol dinitrate).
 (198) Tetrazene (tetracene, tetrazine, l(5-tetrazolyl)-4-guanyl tetrazene hydrate).
 (199) Tetranitrocarbazole.
 (200) Tetryl (2,4,6 tetranitro-N-methylaniline).
 (201) Tetrytol.
 (202) Thickened inorganic oxidizer salt slurried explosive mixture.
 (203) TMETN (trimethylolethane trinitrate).
 (204) TNEF (trinitroethyl formal).
 (205) TNEOC (trinitroethylorthocarbonate).
 (206) TNEOF (trinitroethylorthoformate).



- (207) TNT (trinitrotoluene, trotyl, trilit, triton).
- (208) Torpex.
- (209) Tridite.
- (210) Trimethylol ethyl methane trinitrate composition.
- (211) Trimethylolthane trinitrate-nitrocellulose.
- (212) Trimonite.
- (213) Trinitroanisole.
- (214) Trinitrobenzene.
- (215) Trinitrobenzoic acid.
- (216) Trinitrocresol.
- (217) Trinitro-meta-cresol.
- (218) Trinitronaphthalene.
- (219) Trinitrophenetol.
- (220) Trinitrophenol.
- (221) Trinitroresorcinol.
- (222) Tritonal.
- (223) Urea nitrate.
- (224) Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates, cap sensitive.
- (225) Water in oil emulsion explosive compositions.
- (226) Xanthamonic hydrophilic colloid explosive mixture.

Chapter 4. Registration and Control

Sec. 1. The office shall carry out a program to periodically inspect places where regulated explosives are manufactured.

Sec. 2. (a) The office may order any person engaged in the manufacture or handling of a regulated explosive and any person with control over a place where regulated explosives are manufactured or handled to maintain insurance covering fire and explosion losses. The order is not effective until sixty (60) days after the date that notice of the order is received.

(b) The state fire marshal shall specify the insurance required under subsection (a) in an amount not less than ten thousand dollars (\$10,000) or more than two hundred fifty thousand dollars (\$250,000).

(c) Proof of the insurance required under this section must be maintained with the department of insurance.

(d) The insurance commissioner may exempt a person from the insurance requirements under this section if an applicant for the exemption submits proof that the applicant has the financial ability to discharge all judgments in the amount specified by the state fire marshal. The insurance commissioner may revoke an exemption under this subsection if the commissioner requires additional proof



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of financial ability and:

- (1) the exempted person fails to comply with the order; or
- (2) the insurance commissioner determines that the exempted person has failed to provide adequate proof of financial ability.

Sec. 3. The office shall carry out a program to periodically inspect places where regulated explosives are stored.

Sec. 4. (a) The office shall issue a regulated explosives magazine permit to maintain an explosives magazine to an applicant who qualifies under section 5 of this chapter.

(b) A permit issued under subsection (a) expires one (1) year after it is issued. The permit is limited to storage of the types and maximum quantities of explosives specified in the permit in the place covered by the permit and under the construction and location requirements specified in the rules of the commission.

Sec. 5. (a) To qualify for a regulated explosives permit, an applicant must:

- (1) submit information on the form provided by the state fire marshal describing:
 - (A) the location of the affected magazine;
 - (B) the types and maximum quantities of explosives that will be kept in the place covered by the application; and
 - (C) the distance that the affected magazine will be located from the nearest highway, railway, and structure that is also used as a place of habitation or assembly other than for the manufacture of explosives;
- (2) demonstrate through an inspection that the magazine is constructed and located in accordance with the rules adopted by the commission; and
- (3) pay the fee under IC 22-12-6-6.

(b) To qualify for the renewal of a regulated explosives permit, the applicant must pay the fee under IC 22-12-6-6.

Sec. 6. (a) This section does not apply to storage that is exempted from the requirements of this section in the rules adopted by the commission under IC 22-13-3.

(b) A person who:

- (1) stores a regulated explosive;
- (2) has control over a regulated explosive that is stored; or
- (3) has control over a place where a regulated explosive is stored;

without a regulated explosives magazine permit issued under this chapter that covers the storage commits a Class C infraction.



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Sec. 7. A physician or hospital that knows or should know that the physician or hospital is treating a person for an injury inflicted while the person was making or using a destructive device shall report the injury to a local law enforcement agency under IC 35-47-7-5.

Chapter 5. Offenses Relating to Regulated Explosives

Sec. 1. Sections 2, 3, 4, 5, and 6 of this chapter do not apply to the following:

- (1) A person authorized to manufacture, possess, transport, distribute, or use a destructive device or detonator under the laws of the United States, as amended, or under Indiana law when the person is acting in accordance with the laws, regulations, and rules issued under federal or Indiana law.**
- (2) A person who is issued a permit for blasting or surface coal mining by the director of the department of natural resources under IC 14-34 when the person is acting under the laws and rules of Indiana and any ordinances and regulations of the political subdivision or authority of the state where blasting or mining operations are being performed.**
- (3) Fireworks (as defined in IC 22-11-14-1) and a person authorized by the laws of Indiana and of the United States to manufacture, possess, distribute, transport, store, exhibit, display, or use fireworks.**
- (4) A law enforcement agency, a fire service agency, or an emergency management agency of Indiana, an agency or an authority of a political subdivision of the state or the United States, and an employee or authorized agent of the United States while in performance of official duties.**
- (5) A law enforcement officer, a fire official, or an emergency management official of the United States or any other state if that person is attending training in Indiana.**
- (6) The armed forces of the United States or of Indiana.**
- (7) Research or educational programs conducted by or on behalf of a college, university, or secondary school that are:**
 - (A) authorized by the chief executive officer of the educational institution or the officer's designee; or**
 - (B) conducted under the policy of the educational institution;****and conducted in accordance with the laws of the United States and Indiana.**
- (8) The use of explosive materials in medicines and medicinal agents in forms prescribed by the most recent published**

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edition of the official United States Pharmacopoeia or the National Formulary.

(9) Small arms ammunition and reloading components of small arms ammunition.

(10) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

(11) An explosive that is lawfully possessed for use in legitimate agricultural or business activities.

Sec. 2. A person who knowingly or intentionally:

- (1) possesses;
- (2) manufactures;
- (3) transports;
- (4) distributes;
- (5) possesses with the intent to distribute; or
- (6) offers to distribute;

a destructive device, unless authorized by law, commits a Class C felony.

Sec. 3. A person who has been convicted of a felony by an Indiana court or a court of any other state, the United States, or another country and knowingly or intentionally:

- (1) possesses;
- (2) manufactures;
- (3) transports;
- (4) distributes;
- (5) possesses with the intent to distribute; or
- (6) offers to distribute;

a regulated explosive commits a Class C felony. However, the offense is a Class B felony if the person has a prior unrelated conviction for an offense under this section.

Sec. 4. A person who knowingly or intentionally distributes a regulated explosive to a person who has been convicted of a felony by an Indiana court or a court of another state, the United States, or another country commits a Class C felony.

Sec. 5. A person who knowingly or intentionally distributes or offers to distribute:

- (1) a destructive device;
- (2) an explosive; or
- (3) a detonator;

to a person who is less than eighteen (18) years of age commits a

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Class B felony.

Sec. 6. A person who:

- (1) manufactures;**
- (2) possesses;**
- (3) transports;**
- (4) distributes; or**
- (5) uses;**

a hoax device or replica with the intent to cause another to believe that the hoax device or replica is a destructive device or detonator commits a Class D felony.

Sec. 7. A person who knowingly or intentionally hinders or obstructs:

- (1) a law enforcement officer;**
- (2) a fire official;**
- (3) an emergency management official;**
- (4) an animal trained to detect destructive devices; or**
- (5) a robot or mechanical device designed or used by a law enforcement officer, fire official, or emergency management official;**

of Indiana or of the United States in the detection, disarming, or destruction of a destructive device commits a Class B felony.

Sec. 8. A person who:

- (1) possesses;**
- (2) transports; or**
- (3) receives;**

a destructive device or explosive with the knowledge or intent that it will be used to kill, injure, or intimidate an individual or to destroy property commits a Class A felony.

Sec. 9. A person who knowingly or intentionally uses an overpressure device commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

Sec. 10. A person who knowingly or intentionally deploys a booby trap commits a Class D felony.

SECTION 61. THE FOLLOWING ARE REPEALED[EFFECTIVE JULY 1, 2002]: IC 4-20.5-6-6; IC 22-12-1-21; IC 22-14-4; IC 35-47-5-1.

SECTION 62. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "committee" refers to the interim study committee on terrorism established by this SECTION.

(b) There is established the interim study committee on terrorism. The committee shall study issues related to terrorism.



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(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires January 1, 2003.

SECTION 63. [EFFECTIVE JULY 1, 2002] (a) After June 30, 2002, a reference to the powers, duties, or functions of security officers of the Indiana department of administration in any statute or rule shall be treated as a reference to the state police department established by IC 10-1-1-1.

(b) This SECTION expires July 1, 2005.

SECTION 64. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this SECTION, "security officer activity" refers to all activities of the department that relate to the department's security officers under IC 4.

(c) As used in this SECTION, "state police" refers to the state police department established by IC 10-1-1-1.

(d) The security officer activity of the department is abolished, and all powers, duties, and functions adhering to the security officer activity of the department or the commissioner of the department are transferred to the state police.

(e) The property and records of the security officer activity of the department are transferred to the state police.

(f) This SECTION expires July 2, 2002.

SECTION 65. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this SECTION, "police employee" has the meaning set forth in IC 10-1-1-2.

(c) As used in this SECTION, "security officer activity" refers to all activities of the department that relate to the department's security officers under IC 4.

(d) As used in this SECTION, "state police" refers to the state police department established by IC 10-1-1-1.

(e) The special police employees of the state police assigned to security activities under IC 10-1-1-29 or IC 10-1-1-30, both as added by this act, shall initially be composed of the employees of the department who are employed on June 30, 2002, as part of its security officer activity. Civilian employees of the department that

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support the security officer activity become employees of the state police.

(f) Except as provided in subsection (g), an employee of the department who becomes a member of the state police under subsection (e) on July 1, 2002:

- (1) is entitled to have the employee's service under the department before July 1, 2002, included for the purpose of computing all applicable employment rights and benefits with the security section;
- (2) is a member of the state retirement fund or pension plan in which the employee was a member on June 30, 2002; and
- (3) if the employee was covered on June 30, 2002, by a labor agreement to which the state is a party, shall continue to be subject to the terms and conditions of the agreement and any successor labor agreements entered into by the state.

(g) An employee of the department who:

- (1) becomes a member of the state police under subsection (e); and
- (2) becomes a state police officer after fulfilling the law enforcement training requirements and all other requirements of the state police department;

is not entitled to have the employee's service under the department or the security section included for the purpose of computing all applicable employment rights and benefits as a state police officer.

(h) Positions of the department that are used to perform, or are in support of, the security officer activity that are vacant on June 30, 2002, are transferred to the state police.

(i) This subsection does not apply to an employee described in subsection (g). The salary of an employee of the department who becomes a member of the state police under subsection (e) does not change upon transfer to the state police.

(j) This subsection does not apply to an employee described in subsection (g). An employee of the department on June 30, 2002, who becomes a member of the state police under subsection (e) has the same rank the employee held on June 30, 2002.

(k) All leases and obligations entered into by the department related to the activities of the department's security officers under IC 4 before July 1, 2002, that are legal and valid before July 1, 2002, are legal and valid after June 30, 2002.

SECTION 66. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "security officer activity" refers to all activities of the Indiana department of administration that relate to the

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department's security officers under IC 4.

(b) Any appropriations made to the Indiana department of administration for security officer activity or in support of security officer activity are transferred to the state police department established by IC 10-1-1-1, as added by this act.

(c) This SECTION expires July 1, 2003.

SECTION 67. [EFFECTIVE JULY 1, 2002] This act does not affect the legality of an enforcement action, including an arrest, performed by a security officer of the Indiana department of administration before July 1, 2002.

SECTION 68. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "officer" means a person who is:

- (1) a security officer with the Indiana department of administration on June 30, 2002; and
- (2) an employee of the state police department assigned to security activities after June 30, 2002;

under the provisions of this act.

(b) The superintendent of the state police department shall make available to an officer law enforcement training:

- (1) required by the superintendent; and
- (2) at a time that enables the officer to complete the training not later than July 1, 2003.

(c) This SECTION expires July 2, 2003."

Page 3, line 22, after "2002]" insert "IC 35-43-1-2, IC 35-43-2-2, IC 35-45-1-3,".

Page 3, after line 25 , begin a new paragraph and insert:

"SECTION 70. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-24-6-2, as amended by this act, the bureau of motor vehicles commission shall carry out the duties imposed upon it under IC 9-24-6-2, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 9-24-6-2.
- (2) December 31, 2002.

SECTION 71. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 10-4-1-30(g), as added by this act, the state emergency management agency shall carry out the duties imposed upon it by IC 10-4-1-30, as added by this act, under interim written guidelines approved by the director.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 10-4-1-30(g).



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(2) June 30, 2003.

SECTION 72. [EFFECTIVE JULY 1, 2002] (a) The general assembly finds that the state needs the construction, equipping, renovation, refurbishing, or alteration of communications system infrastructure (as defined in IC 5-26-5-1, as added by this act).

(b) The general assembly finds that the state will have a continuing need for use and occupancy of the communications system infrastructure described in subsection (a). The general assembly authorizes the state office building commission to provide the communications system infrastructure described in subsection (a) under IC 4-13.5-1 and IC 4-13.5-4, including the borrowing of money or the issuance and sale of bonds, or both, under IC 4-13.5-4.

SECTION 73. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1001 as introduced.)

MOSES, Chair

Committee Vote: yeas 9, nays 0.

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